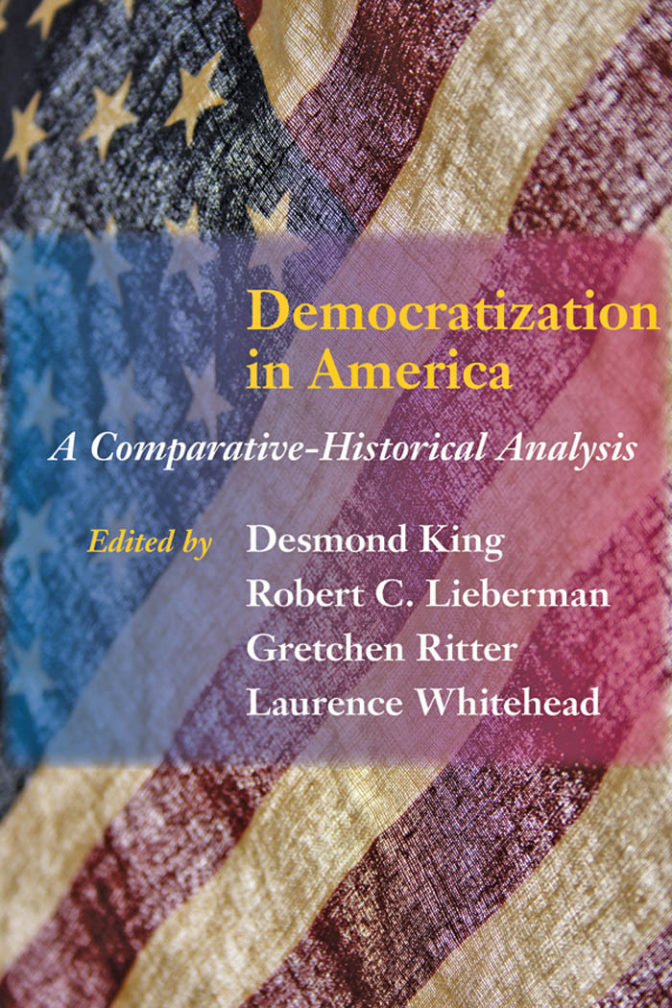
Democratization in America
A Comparative-Historical Analysis
Edited by
Desmond King
Robert C. Lieberman
Gretchen Ritter
Laurence Whitehead

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Desmond King
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referred to in chapters 1, 10, and 11, and readers will want to consult it. Mary Dudziak also presented an important contribution drawn from her book *Cold War Civil Rights* (2000), and the influence of her research and arguments can be seen throughout the chapters in this volume. Both Frederick and Mary made decisive intellectual contributions to this project.

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PART I

Setting the Theoretical Context

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CHAPTER ONE

American Political Development as a Process of Democratization

Desmond King and Robert C. Lieberman

The United States is at once an old and a new democracy. It is the world's longest-standing constitutional regime, in which governing power is granted and taken away by the votes of citizens. The basic democratic architecture of its institutions—the fundamental reliance on electoral accountability and representation as both the source and the limits of government power—can be traced to the American Revolution and the origins of the republic in the eighteenth century (Morgan 1988).[1] The Revolution was radical, as Gordon Wood (1992) shows, not because it overthrew a distant monarch or engaged in novel constitutional engineering but because it unleashed liberal, egalitarian, and commercial social forces that transformed American society (see also Appleby 2000). It provided a self-conception of the United States as democratic for many Americans, from Theodore Roosevelt and Woodrow Wilson through Herbert Croly to Walter Berns. Croly described the United States in 1909 as "Land of Democracy" whose citizens were "committed to the realization of the democratic ideal" (Keyssar 2000: xv; Berns 2001).

At the same time, the new republic's democratic aspirations, the principles of equality and political rights expressed in the Declaration of Independence, remained, for many Americans, unfulfilled for two centuries. The incompleteness of American democracy became, for example, a core article of Abraham Lincoln's political faith as he developed his response to slavery and sectional conflict in the 1850s. "No man," he said in his response to the Kansas-Nebraska Act of 1854, "is good enough to govern another man, without that other's consent. I say this is the leading principle—the sheet anchor of American republicanism."

After quoting extensively from the Declaration, Lincoln went on to assert that "according to our ancient faith, the just powers of government are derived from the consent of the governed. Now the relationship of masters and slaves is . . . a total violation of this principle" (Wills 1992).[2] More generally, the United States has only gradually and haltingly extended basic democratic rights to its own citizens, and core aspects of the implementation of its democratic aspirations can be found as recently as the 1960s (Keyssar 2000; Valelly 2004; Weiner 2004).

We, citizens and scholars alike, generally take for granted that the United States is and has always been a democracy, without considering that it, too, had to undergo a process of democratization. But acknowledgment of this process as an aspect of American democracy is at odds with the commonplace view that the United States was the first liberal democracy—that, as Tocqueville (1945, 2: 484) wrote, Americans "arrived at democracy without having first to suffer democratic revolutions" and were "born equal instead of becoming so" (see Hartz 1955; Lipset 1963, 1996; Lockhart 2003). In this chapter, we set out an intellectual rationale, both theoretical and empirical, for studying American political development as a process of democratization and explain how the ensuing chapters take this framework forward in case studies.[3]

A democratization perspective on American politics carries advantages, first and foremost, for the understanding of American political development. Under the strong, one might even say Whiggish, democratic presumption that underlies much of the writing of American political history, nondemocratic outcomes cannot help but appear as anomalies, mistakes, all but inexplicable from within the basic framework of American politics (see Myrdal 1944; Truman 1971; Huntington 1981). But if we relax this presumption of democracy and recognize that the American regime has not always been fully democratic and that its democratic character has varied greatly—over time, across regions, and across groups of citizens and claimants to citizenship—then certain characteristics of American political development come into sharper focus, providing both new answers to old questions and new questions that demand answers. Robert Mickey's (forthcoming) shrewd examination of the southern states as "authoritarian enclaves" under democratizing pressure from national institutions, for example, generates a novel and striking reinterpretation of the civil rights revolution, in which the structure of the state's coercive apparatus is crucial in explaining democratizing pathways. At the same time, a democratization perspective might fruitfully unsettle older analytical categories and periodization schemes such as party systems or electoral realignments, which rely on accounts of electoral behavior but

are generally silent about the rise and fall of democratic practices and institutions (Mayhew 2002; J. E. Campbell 2006). In this vein, Melanie Springer (2006) shows how state electoral institutions shape and constrain democratic participation in ways that defy conventional accounts.

This shift in the premise of American political development opens up the dynamics of American democracy itself to critical analysis and allows us to pose (and eventually to answer) questions about patterns of democracy in American politics—expansions and contractions, advances and declines, triumphs and challenges. Once democracy itself becomes a variable in the analysis of American political development, and a dependent variable at that, then the link with democratization is plain. Studies of democratization have revealed important relationships among fundamental factors—political and institutional, cultural and ideological, economic and material—that help to account for democracy's successes and failures. The study of American political development, as Karen Orren and Stephen Skowronek (2004) note, has been principally focused on the evolution of particular political institutions and public policies. These authors suggest, however, that defining political development at once more broadly and more precisely as "durable shifts in governing authority" can help tie together often disparate and disconnected threads of inquiry and make possible a clear analytical focus on broader, system-level developmental outcomes such as democratization (Orren and Skowronek 2004: 123, 174–84). In this volume we take up Orren and Skowronek's challenge, and the consequent reformulation, as Suzanne Mettler argues in chapter 10, reveals a critical element of American political development largely missing from the existing literature: the consequences of policy and institutional development for citizens and for the nature and character of patterns of linkage between citizens and the state (see also Mettler and Soss 2004). Rather than taking a self-fulfilling teleological approach to American democracy, this perspective promises a more dynamic view, in which democracy is not merely a background condition for the working out of political struggles over other goods but also itself the object and outcome of political struggle, of contests over power and principle, whose ebb and flow can in turn, over time, help to illuminate some of the most important questions at the forefront of American political development scholarship today, about stability and change in governing arrangements, conflict and consensus among political traditions, and the evolution of public policies (R. Smith 1997; M. Jacobs, Novak, and Zelizer 2003; Orren and Skowronek 2004; King 2005a, 2005b).

This move also carries advantages for the study of democratization and of

comparative politics more generally. From one perspective, the United States constitutes merely another case of democratization, another data point that might enrich conclusions about democratization and its causes—a small benefit, perhaps, for statistical studies of the contemporary era that are populated by many dozens of countries (although possibly of greater moment in cross-sectional studies of earlier periods when cases of democratization, actual and potential, were fewer). But from a more historical angle of vision, the United States of America is a critically important case of democratization, an early—or even the first—entrant in the first wave of democratization in the modern era. Just as the Industrial Revolution in England has been exhaustively chronicled and minutely dissected not because it was typical but because it was the first, and so set the terms and categories by which other national cases of industrialization were experienced and understood, even when they were different, so might it be profitable to consider American political development as an early and particularly influential case of democratization (Polanyi 1944; Gerschenkron 1962; Hobsbawm 1968; Piore and Sabel 1984). Such, in essence, was Tocqueville's rationale for studying American democracy in the early nineteenth century:

> I am very far from believing that [the Americans] have found the only form of government that democracy can give itself; but it is enough that in the two countries [the United States and France] the generative cause of laws and mores be the same, for us to have an immense interest in knowing what it has produced in each of them. Therefore it is not only to satisfy a curiosity, otherwise legitimate, that I have examined America; I wanted to find lessons there from which we could profit . . . I confess that in America I saw more than America; I sought there an image of democracy itself, of its penchants, its character, its prejudices, its passions; I wanted to become acquainted with it if only to know at least what we ought to hope or fear from it. (Tocqueville 1945, 1: 12–13)

The task of telling and analyzing the story of American democratization promises a valuable intellectual payoff. Because its founding generated such self-confident and unreflective democratic promise that has come to fruition in such a gradual and nonlinear fashion, the United States might fruitfully be described as an "immanent democracy," as Laurence Whitehead argues in chapter 2 (see also Whitehead 2004). In the United States, democratic norms and patterns of governance were established early (although frequently and consistently violated for a long time), and would-be democratizers had to operate from within an already democratic frame, in which some citizens already endowed with demo-

cratic rights and benefiting from the uneven distribution of rights objected to the dilution of their own power that would follow from the extension of rights to others—what we might call the "democratization trap," to use Lieberman's term from chapter 9 (see also Lieberman 2004). Democratization in the United States, as many observers have noted, occurred largely without a violent, revolutionary rupture with an authoritarian ancien régime (although not without violence) and in the context of an ambiguous relationship between democracy and liberalism (Moore 1966; Rose and Shin 2001; Zakaria 2003). Such a portrait of democratization in the United States poses an especially valuable set of puzzles about the causes and processes behind democratization, particularly having to do with the role of the state, the enforcement of rights, and the extension of citizenship, all of which we take up in the main body of this chapter.

Finally, because the United States was an early mover in the democratization game, American democratization is potentially important as an influence on the development of democracy elsewhere, both as a model (or an anti-model) for actors in other countries and as an early event in a path-dependent process of cross-national development in which early events shape the conditions in which subsequent processes and events unfold (Thelen 1999; Mahoney 2000; Pierson 2000). Over the course of the twentieth century, the growing power and presence of the United States in international politics has continually augmented its role in shaping political developments elsewhere. Since World War I, the projection of democratic principles and institutions beyond American borders has been central to the nation's international role, and democracy building still explicitly guides American foreign policy.[4] During World War II and the Cold War, the contrast between American-style liberal democracy and a variety of illiberal, totalitarian alternatives—first Nazism and then Soviet communism—formed a central axis of American politics and policy, both foreign and domestic. In the last half of the century, democracy increasingly became an American export commodity; American officials wrote the constitutions of reconstructed Germany, and in the wake of the Soviet regime's collapse, constitution-writing and what one might call "democratic engineering" became veritable cottage industries for American scholars, diplomats, and foundations, especially in eastern Europe and the former Soviet republics but also elsewhere in the developing world. More recently, in the post–September 11 world, the international dominance of the United States makes its involvement in international affairs an intricate aspect of democracy building and democratization as international phenomena. Among the George W. Bush administration's justifications for the invasion

and subsequent occupation of Iraq in 2003 were that it would help spark democratization not only in Iraq but also throughout the Middle East, a proposition restated in Bush's second term of office (Remnick 2004).[5] Consequently, the changing meaning and practice of democracy in the United States is crucial to understanding the international consequences of American power (see Owen 1997; Zakaria 1998; Dudziak 2000; Lieven 2004; Nye 2004). At the same time, international factors shape American domestic politics in ways that affect internal processes of democratic change, both historically (as in the impact of the Cold War on civil rights politics) and in contemporary politics (as in the U.S. stance toward international organizations such as the International Criminal Court and the United Nations and external commentaries on U.S. domestic policies) (see Dudziak 2000; Katznelson and Shefter 2002; Skrentny 2002, chaps. 2 and 3).

Democratization in a Democracy?

Democratization is a complex process that does not have a single clear definition. The democratization literature has gone through several phases but achieved a fresh, significant intellectual development with the work of scholars studying the "third wave" of new democracies: a group of authoritarian regimes that have made (or attempted) a generally recognized transition since the 1970s to political systems characterized more or less by fair and competitive elections with universal (or near-universal) suffrage, the rule of law and protection of basic civil liberties, and a robust civil society (Huntington 1991). If we take the transition from authoritarianism to be an essential component of the definition of democratization, then the case for considering the United States as a democratizing nation is less than clear. But despite deep disagreements about what democratization is and how to measure it, one consistent theme of the most recent wave of democratization studies is that democratization is not, as earlier modernization theorists suggested, an inevitable or unified process. Rather, democratization and the pursuit of democracy are processes affected by multiple and continuing challenges as societies try to change the patterns and practices of politics and governance on many dimensions, often simultaneously. Moreover, as Daniel Ziblatt (2004, 2006) argues, even the classic cases of nineteenth-century European democratization (and nondemocratization) are more ambiguous than we typically realize, embracing multiple and variable democratic and nondemocratic elements simultaneously. In this view, democratization is an open-ended

process that can move along multiple possible paths toward (or away from) more democracy on multiple dimensions—broader suffrage, stronger protection of voting or other rights, higher levels of political contestation, or increasing susceptibility of policymaking to public scrutiny and control, for example. It is, moreover, separable from the question of authoritarian origins and transitions; like a newly emerging democracy, established democracies might also struggle with these issues. In the United States, for example, the protection of voting rights remains a divisive question. Section 5 of the Voting Rights Act, under which the federal government oversees all aspects of voting in much of the South—from the drawing of districts and the definition of electoral jurisdictions to such seemingly mundane matters as the location of polling places and changes in voting technology—was scheduled to expire in 2007 and was extended only after a debate about how best to protect the voting rights of African Americans, Latinos, Native Americans, and naturalized immigrants, among other groups.

Although the legislative renewal of the Voting Rights Act has become relatively uncontroversial, the act's democracy-enhancing properties have recently come under increasing challenge through other means. Under the George W. Bush administration, the emphasis of voting-rights enforcement activity has shifted away from ballot access toward preventing and investigating alleged "voter fraud," a move that risks limiting the exercise of democratic rights. This shift is apparent, for example, in the gradual reorientation of the activities of the Voting Section of the Justice Department's Civil Rights Division away from access and toward "voting integrity" (Toobin 2004). The administrative reshuffling of the Voting Section is, in turn, a symptom of the Bush administration's brazen politicization of the Justice Department, which resulted in the scandal surrounding the firing of seven United States Attorneys in 2006 for, among other things, refusing to bring questionable "voter fraud" indictments against the administration's political opponents (Iglesias [with Seay] 2008). Bush appointees hostile to the Voting Rights Act have also begun to reshape the federal courts, with significant potential effect. In a recent Texas case, a local election district challenged the constitutionality of Section 5 of the Voting Rights Act (which requires that proposed changes in voting procedures be "precleared" by the Justice Department to ensure that they will not have discriminatory effects). The U.S. Court of Appeals for the District of Columbia rejected this claim, but it is likely to be appealed to the Supreme Court (*Northwest Austin Municipal Utility District Number One v. Mukasey* 2008). The Supreme Court has already weighed in on voter fraud, upholding voter identification laws with very strict identifica-

tion standards whose principal effect seems to be to limit ballot access, especially for poor and minority voters (*Crawford v. Marion County Election Board* 2008). And Chief Justice John Roberts indicated in a recent oral argument that he does not view the last four decades of protective voting rights jurisprudence as settled, suggesting that the Voting Rights Act itself might be open to such a challenge at the highest level (*Riley v. Kennedy* 2008: 40).[6]

Democratization is a complex and contested concept largely because democracy is so, too. Definitions of democracy range from the purely procedural to expansive and fully rounded notions of citizenship (see Held 1996; Foweraker and Landman 2002; Foweraker and Krznaric 2003). One well-established yardstick for the identification of "restricted" and "full" liberal democracy is Robert Dahl's (1971) essentially procedural definition of democratic institutions as polyarchy: a political regime characterized by free and open elections with low barriers to participation, genuine political competition, and wide protection of civil liberties (see Rose and Shin 2001; F. González and King 2004). Empirical elaborations of Dahl's model suggest that "democracy" is a variable and, perhaps, rather blunt concept that bundles together many different dimensions that may or may not coincide. Countries, including the United States, may measure up on some dimensions of democracy but not on others, and these regime configurations may change over time (Gurr, Jaggers, and Moore 1990; Zakaria 2003). Dahl (2002) himself recently argued that the American constitutional regime inherently falls short on several democratic dimensions. The outcome of the presidential election in 2000 drew attention to the ramshackle operation of democratic procedures and institutions in the United States (see Dionne and Kristol 2001; Political Staff of the Washington Post 2001; Wand et al. 2001). All political systems, even the most well-established democracies with impeccable democratic credentials, find their institutions under critical scrutiny from time to time. The national and international furor accompanying the emergence of Jean-Marie Le Pen in the second round of France's presidential election in 2002 is an instance. In the United Kingdom, the Law Lords, the most senior appellate judiciary, lambasted the Blair government's detention without trial of terrorist suspects under the Anti-terrorism, Crime and Security Act 2001 and, in a ruling with far-reaching consequences, declared government policy unlawful.[7]

A counterpoint to the Dahlian procedural conception of democracy is an approach rooted in the tradition of Max Weber and Joseph Schumpeter that emphasizes the relationship between democratic procedures and state institutions (Schumpeter 1942; Weber 1946; see also Riker 1982). In this conception, the

development of strong, authoritative state institutions, predicated on elite competition for popular support, and capable of enforcing the rule of law and protecting rights is a precondition for democratization. The role of state institutions in fostering democratization, however, is generally occluded in the United States by the early, widespread adoption of universal white male suffrage in the states before the development of a strong central state (Shefter 1977). In Europe, by contrast, the state typically preceded democracy, whose arrival was often triggered by an actual or threatened state crisis, whether triggered by external or internal pressure. This historical presumption that democratic procedures and norms were well established before the expansion of the American national state—a premise that dates back at least to Tocqueville—has often obscured both the partial and fragile nature of early American democracy and the role of the emerging national state in fostering (and hindering) democratic development. But despite a long-standing rhetorical commitment to democratic procedures and the rule of law, the terms of inclusion within American democratic procedures were limited. Many Americans were excluded from democratic procedures and defined as outside the boundaries of American democracy. As the chapters in this collection demonstrate, moreover, these two historical sequences of democracy and state building have overlapped in the United States: without the development of a central bureaucratic state to enforce the democratic procedures, the democratization process would have remained incomplete. And, indeed, aspects of American democratic procedures for reaching democratic outcomes continue to create inequities and lines of exclusion—some, such as the Electoral College, inherent in the very institutional structure of American democracy, and others, such as the denial of voting rights to ex-felons, enacted and enforced by the state (see G. Edwards 2004; Manza and Uggen 2006).

Finally, a third conception of democracy revolves around the concept of citizenship. As most famously elaborated by T. H. Marshall (1964), citizenship consists in full and equal membership in a national community. Marshall's conception of citizenship involves three elements: civil, which consists of individual liberty and the right to equal justice; political, inhering in "the right to participate in the exercise of political power"; and social, meaning "the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society" (Marshall 1964: 71–72). Procedural conceptions of democracy are most centrally concerned with the political rights of citizenship—above all, the franchise—and more state-centered

notions might extend this definition to include the civil rights of citizenship. Marshall's tripartite definition suggests a broader, more expansive definition of democracy that encompasses not only participatory procedures and institutional protections of equal rights against a predatory state but also a regime's capacity to foster a wide array of citizenship rights, including social rights. In this view, the process of democratization involves the development of a set of social relations among states, civil society, and individuals, encompassing a wider substantive array of political, social, and economic practices that can include or exclude groups on a variety of terms (Somers 1993; Weiner 2004). This perspective, too, offers an alternative angle of vision on the process of democratization in the United States, in which the political rights conventionally associated with democracy have often been dissociated from broader citizenship rights for many groups, including women, racial and ethnic minorities, and immigrants (Orloff 1993; Kerber 1998; Mettler 1998; Novkov 2001, 2008, Wolbrecht and Hero 2005).

It is not our intention to be prescriptive about any of these models of democracy and consequent definitions of democratization. In fact, the chapters in this volume span the range of approaches that we lay out here. Stephen Tuck and Tali Mendelberg, for example, come closest to the procedural definition of democracy in their respective discussions of voting rights (chapter 6) and electoral campaigns (chapter 7). Daniel Kryder (chapter 8) and Robert Lieberman (chapter 9) explore the ways in which particular institutions—federalism, bureaucracy, and structures of social control—affected the development of American democracy. Gretchen Ritter (chapter 5) takes a citizenship-centered view of democratization in the United States, examining some of the factors that led to the transformation of the social relations that shaped the democratic experiences of women (Fredrick Harris [2006] takes a similar approach with regard to African Americans). Each of these works tells a critical piece of the story of democratization in the United States and offers a singular vantage point from which to view democratic development. Cumulatively, however, they frame the question of American democratization by highlighting these different possible understandings of democracy and exploring the ways in which the practices of liberal democracy and political inclusion have developed historically in the United States, the consequences of that history for various groups of Americans (particularly African Americans), and the tensions and contradictions that are often inherent in democratic politics. In doing so, the essays in this volume extend the analytical framework that we develop here and establish an agenda for future re-

search in both American political development and the study of democratization more broadly.

The Scholarly Context

Because we are bringing together scholarship in two rather disparate fields—comparative democratization and American political development—it is worthwhile summarizing briefly some key points from each of these perspectives, to identify areas and issues that might form a fruitful area of overlap and mutual inquiry. Scholars of comparative democratization bring a broad sweep to the twentieth century, commonly distinguishing three great waves of change. First, the efforts of states to achieve statehood and national independence in Europe after World War II, under the aegis of Woodrow Wilson's promise to support nationalist movements, resulted in new states principally in central and eastern Europe; some claims were explicitly disregarded. Second, World War II unleashed a momentum to end nineteenth-century-style colonization, a propensity expressed both in the 1941 Atlantic Charter and in the founding documents of the United Nations. The rapid decolonization of former colonies of European powers in Africa and Asia institutionalized this second wave of democratization, irreversibly changing the face of global politics. Third, since 1973, the diffusion of democratization—initially in Mediterranean Europe (Spain, Portugal, and Greece) and then, after 1989, in the countries of eastern and central Europe formerly controlled by Soviet communists—made the onward march of democratic governance seem unstoppable (and even an "end to history" in some more extreme assessments [Fukuyama 1992]).

From these waves of democratization we can infer several analytical points about how democratization unfolds in a state, with implications for the American experience.[8] First, war and external engagement have clearly affected democratization, and the tension between the United States' domestic ideology of democratic nationhood and the projection of its power and image in the international sphere was a constant dynamic in the twentieth century that influenced politics at home. To take one example, efforts by African Americans such as W. E. B. Du Bois to win full representation at the League of Nations discussions and Paris Peace Conference after World War I were rebuffed by the American delegation. At the Paris Peace Conference, a Japanese-initiated proposal for inclusion of an equality clause in the League of Nations charter was rejected by the United States and Britain, despite its compatibility with Woodrow Wilson's

Fourteen Points. Second, the United States was able to take an anticolonial stance during and after World War II, in part because of the relative absence of an imperial legacy in the United States and, indeed, its political and cultural hostility to colonial-type arrangements (a consequence of its political origins as a nation). But this stance did not extend, of course, to a generalized and active support of anticolonial movements—as the United States' tolerance of apartheid in both Rhodesia and South Africa, and its tortured Cold War relationship with the developing world, illustrate.

Democratization and Transitions

More generally, there are two preliminary distinctions to make before discussing approaches to democratization in the literature. First, we need to distinguish between democracy and democratization. In contrast to democracy as a type of political regime (however defined), democratization is a continuing process of reform and modification of institutions and practices, from fewer to more degrees of free and fair contestation and participation. Democratic norms and values as well as democratic institutions and practices are permanently open to revision—the inclusion of new aspirations, the excision of outdated practices, the embrace of freedom, justice, and equality (F. González and King 2004; Whitehead 2004). Second, there is a useful distinction between the transition to democracy from some other regime type and the consolidation and preservation of democracy in the face of nondemocratic or antidemocratic challenges. On both points, the United States has in practice been a case of restricted democracy making a long-term transition to something approaching full liberal democracy, which it approached—although not without limitations—only in the twentieth century with adoption of the Nineteenth Amendment to the Constitution in 1920 (guaranteeing women the right to vote) and passage of the Civil Rights and Voting Rights Acts in the mid-1960s (Therborn 1977; Rueschemeyer, Stephens, and Stephens 1992: 122). The United States did not undergo a transition from authoritarianism to democracy comparable, in any sense, to the regime transitions in third-wave countries (although, as Mickey [forthcoming] notes, the southern states did undergo such a transition in the mid-twentieth century, with important consequences for national politics). However, given that the process of democratization (in any polity) is long-term, gradually changing, and open-ended, some of the key challenges for both older, established and new democracies are likely to be similar or, at the very least, to pose interesting common problems. It is in this sense that a comparison of the proc-

esses of political democratization in the United States and in other old and new democracies is plausible and useful.

There is a scholarly literature on both the causes of democratization and the determinants of successful transition to liberal democracy. The literature has grown since the end of the Cold War, as more states confront the problems of building and sustaining democratic institutions. We do not seek here to offer an exhaustive account of this literature, but only to identify several major strands of argument that touch on important aspects of the American case. Three clusters of factors in particular have emerged from a generation or more of debate about democratization, which we can denote (in shorthand) as class, civil society, and the state.

Early attempts to account for democratization focused on economic development as the key to democratization, particularly those under the rubric of modernization theory. Contrasting Latin America with western Europe, for example, Seymour Martin Lipset (1959) argued that socioeconomic indicators correlate with the rise of pluralism and democracy. This thesis mimicked W. W. Rostow's (1960) "stages of economic growth" model, proposing comparable stages in political development: once deficits in literacy, for example, and other indicators of social and economic "backwardness" are overcome, then a society will smoothly slip into democracy (see also Almond and Coleman 1960; Deutsch 1961). Despite a generation of challenges to the modernization approach, more recent scholarship has also noted the importance of levels of economic development in sustaining democracy, if not in creating it (Przeworski et al. 2000; Przeworski 2004).

For other scholars, economic development is central not because of the social and political processes associated with aggregate wealth but because of the evolution of class politics. In his magisterial historical sociology of the origins of modern politics, Barrington Moore Jr. placed most emphasis on class formations and class coalitions as key determinants of political system outcomes; as Moore (1966: 418) himself pithily summed up his thesis, "no bourgeois, no democracy." Rueschemeyer, Stephens, and Stephens (1992) developed Moore's insights further to argue that Lipset and the modernization theorists overlook three structural features relevant to democratic transitions: class, defined by relationships to the means of production; the relative autonomy of the state; and a country's position in the international political economy. In particular, capitalism fosters democracy because it permits a working class to organize and demand rights of inclusion. Capitalism also allows for the development of a strong

state, especially fiscally, which can become a legitimate broker among competing class interests. Capitalism also fosters transnational inequality, and a polity's status in the economic hierarchy of nations can affect the constraints and opportunities it faces in democratizing. Recent work in political economy has emphasized the role of inequality among social and economic groups in shaping the spread and stability of democracy (Boix 2003; Acemoglu and Robinson 2006).

A second, parallel strand of thought about the determinants of democracy has focused on civil society. Gabriel Almond and Sidney Verba (1965) famously argued, based on survey evidence from five countries at various stages of democratic development, that democratic sustainability requires the development of relevant political attitudes toward the state and its legitimacy as well as a correlate level of political participation. These elements, they argued, cumulate into a "civic culture," which is a necessary element for the survival of liberal democratic institutions. Later works have developed this theme further, suggesting how "civicness" is linked to the performance of democratic institutions through forms of social organization that foster mutual trust among citizens and effective differentiation between state and society (Putnam, Leonardi, and Nanetti 1993; Linz and Stepan 1996a, 1996b; Diamond 1999; Schedler, Diamond, and Plattner 1999; Putnam 2000; Letki and Evans 2005).

Finally, the role of the state and political institutions in democratization has been a central theme. Among the earliest critics of modernization theory, Samuel Huntington (1968) argued that economic and social development did not necessarily produce democratization and that political stasis in rapidly changing social and economic contexts was a recipe for disorder. Theda Skocpol (1979) identified state structure as a key determinant of revolution (or, perhaps more significantly for our purposes, its absence). More recently, scholars such as Juan Linz (Linz 1990; Linz and Valenzuela 1994), Arend Lijphart (1990), and Alfred Stepan and Cindy Skach (1993) argued that particular characteristics of national constitutional and institutional structures—especially the choice of parliamentary or presidential government—have been consequential in building and maintaining democratic stability (see also Shugart and Carey 1992). The state, in these analyses, is important for building and sustaining democracy because it can implement and safeguard democratic processes of linkage between citizens and representative government; in other words, how the state organizes and deploys its legitimate control of coercive means within a polity is fundamental to the achievement of democracy (O'Donnell 1999). The state is crucial for democratization because it can protect and enforce the rights that are necessary to

make democratic government function—economic rights that promote development and growth, civil rights that underlie effective associationalism and civil society, and, especially, political rights. The rule of law presumes enforcement. In the absence of an effective state capable of employing its resources throughout its territorial jurisdiction, these rights might exist in principle but without supporting or advancing democracy. The various strands of citizenship, moreover, may be connected in numerous ways, producing various configurations of rights, political practices, and institutional structures that conform to democracy in any of its guises only loosely, if at all (see Mann 1987; North and Weingast 1989; Berman 1997).

American Political Development

The field of American political development most obviously links up with democratization studies through the last of the three categories noted above—that is, institutions and state building. Following the lead of perhaps the field's founding work, Stephen Skowronek's *Building a New American State* (1982), scholars of American political development have focused much of their attention on the historical evolution of American political institutions as both causes and consequences of other political phenomena (see Carpenter 2003). This body of work examines how the major institutions of the United States—the presidency, Congress, the courts, the bureaucracy, the Constitution, political parties, and so forth—both reflect historical origins and shape and constrain possibilities for political action over time. Other important work in the genre focuses on particular issues such as race, gender, welfare, and immigration, among others, to investigate how these categories have configured (and been configured by) American politics (Valelly 2004; Hattam 2007; Lowndes, Novkov, and Warren 2008; Novkov 2008).

In an important recent turn that has brought this literature even closer to the central concerns of democratization studies, American political development scholars have begun explicitly to probe the mechanisms by which institutions and political outcomes change over time.[9] The key move in this direction has been the "multiple orders" framework advanced by Orren and Skowronek (2004), which aims to show how durable but often incongruous institutional arrangements can produce permanent changes in patterns of governing authority in the American polity. In this view, an order provides—among other things—coercive enforcement capacities, through bureaucratic and legal institutions, that serve to maintain a functioning polity. For Orren and Skowronek, four features define

institutions: broad but discernible aims, established rules, roles assigned to participants, and boundaries demarcating those inside from those outside the institution. Some institutions, such as Congress and the presidency, lay claim to inherent authoritative status as "governing political institutions," while others, such as political parties, try to place their members in positions of authority at the expense of others. Because these institutions do not automatically cohere into a single unified political order, a central aim of Orren and Skowronek's framework is to underscore the presence of multiple orders and to note how these orders compete and conflict—and it is such conflict, which they call "intercurrence," that drives political change. Other analyses have built on this approach, integrating ideas and culture into accounts of this process of change emerging from competing and overlapping orders, including Skowronek's (2006) own analysis of Woodrow Wilson's reformulation of American liberalism through the invocation of racist themes (R. Smith 1993; Lieberman 2002b; Katznelson 2004; King and Smith 2005). Several important recent works in American political development have provided a richer understanding of how major American political institutions—including Congress, the presidency, and the bureaucracy—developed in ways that both created periods of stable political order and reflected shifting political coalitions and societal divisions. Examples include Eric Schickler's (2001) study of institutional change in Congress, Daniel Carpenter's (2001) study of bureaucratic autonomy, Daniel Tichenor's (2002) work on immigration policy, and Daniel Kryder's (2000) study of wartime mobilization. For the most part, such institutional narratives treat a single institution as central (although, of course, related to others) and take for granted the democratic character of the American republic. In other studies, sectors of the polity where democracy was long restricted—such as race and gender—are central as explanatory factors for policy or other political outcomes (Skocpol 1992; Quadagno 1994; Lieberman 1998, 2005).[10]

Even in these instances, however, there is generally little if any direct consideration about the consequences of policy on institutional developments for the American regime itself or its liberal democratic institutions as core concerns. A generation of scholarship in American political development has shown how the workings of democratic institutions have contributed to the particular patterns of American state building and policy development, taking more or less for granted the fundamental democratic nature of the American regime. But increasingly, students of American political development have begun to peel back the layers of American democracy and democratic citizenship and to probe the

origins, patterns, and trajectory of American democracy itself. How have citizens, would-be citizens, and other residents and subjects of the United States interacted with the state, and how have the patterns linking citizens and others to the state evolved over time? What factors lie behind the development of democratic institutions and processes such as citizenship, accountability, participation, mobilization, representation, the organization of interests, deliberation, trust, and civil society, among others? How have institutional and policy developments—the traditional bread and butter of American political development—helped, hindered, or otherwise shaped these patterns of citizen-state linkage? Some exemplary studies have begun to ask and answer such questions, such as Joe Soss (1999) on the American welfare system, Andrea Campbell (2003) on Social Security and the mobilization of elderly people, and Suzanne Mettler (2005) on the GI Bill and its impact on civic engagement (see also Ingram and Smith 1993; Weir 1998; Tichenor and Harris 2002–3; Lieberman 2005). But it is one of our principal aims in this volume to suggest both that American political development is distinctively poised to address these urgent questions and that thinking about the United States as democratizing rather than simply democratic makes this direction of inquiry not only possible but imperative.

The State, Rights, and Citizenship

As we have already suggested, it is first and foremost in the realm of the state—its structure, capacities, and evolution—that the American political democracy and democratization agendas merge, and we propose that this is the most fruitful jumping-off point for a joint intellectual expedition. The state is important not only because of its intrinsic role in ensuring political stability but also because it is the principal enforcer of democratic rights. Preliminarily, then, these two aspects of democratization theory seem particularly germane to thinking about this process in the United States: first, the role and nature of the state—degrees and types of "stateness"; and second, the role of enforceable rights.

Broadly, "stateness," a term we borrow from J. P. Nettl's (1968) pioneering work on the state, refers to level and type of organization of public power in a polity (see also Katznelson 2002a: 11–14). Nettl depicts the state as a variable, which he decomposes into four dimensions, each of which is itself variable. The state is, first of all, the Weberian holder of sovereignty in a territory, the "institutionalization of power." Second, the state is a unit in international relations, interacting with other sovereign states. Third, it is a distinct sector of society,

a bounded association with its own institutional and organizational structure that interacts, more or less autonomously, with other institutions and actors in the economy and civil society. Finally, it is a cultural construct, the cumulative result of intellectual traditions and patterns of belief that ascribe to the state a particular set of roles and a bounded legitimacy. In Nettl's wake, the resurgence of the state in a new institutionalist context served as the foundation for the emergence of historical institutionalism and American political development, particularly in the work of Skowronek (1982), Skocpol (1979), and their collaborators and followers (P. Evans, Rueschemeyer, and Skocpol 1985). But in this translation, something of the subtlety and multidimensionality of Nettl's nuanced conception of the state was lost, and the study of the state in American political development has increasingly focused (often quite fruitfully, we hasten to add) on a limited selection from Nettl's menu of choices, particularly on the institutional dimension (delineated particularly by the key concepts of state capacity and autonomy) and, to some degree, the cultural dimension (Skocpol 1985). In this genre, the American state is commonly characterized by its generic "weakness"—fragmentation, lack of coercive administrative capacity, and the often-frustrating gap between ideology and practice. This picture of state weakness complements and reinforces the presumption that democracy and democratization are fundamentally bottom-up phenomena, driven principally by developments in civil society such as social movements or the more mundane, everyday patterns of civic life (Putnam, Leonardi, and Nanetti 1993; McAdam, Tarrow, and Tilly 2001). The state's role in democratization, in this context, is at best an oblique one and, consequently, the weak-state orientation of American political development scholarship has tended to divorce the study of the state from the concerns of democratization. Many of the essays in this volume, however—Ritter's (chapter 5) and Mendelberg's (chapter 7), for example—highlight how the institutional and cultural aspects of stateness might be brought back into the consideration of American democratization.

Left to the side in this narrowing of Nettl's vision were the aspects of the state that speak more directly to its role in shaping democratization, particularly the state's associational dimension, which is often closely connected with the patterns of citizen-state linkage that are central to democratization processes. Democratization scholars have increasingly found the capacities, resources, and programmatic goals of state institutions and officeholders to be a crucial force in building or hindering the building of democratic forms of linkage between governments and citizens. Increasingly, moreover, prominent accounts of de-

mocratization and democratic politics point to the interaction of "society-centered" factors, such as civic organizations and social movements, with the state to account for important outcomes (Linz and Stepan 1996a; Skocpol 2003; Tilly 2004; F. Harris, Sinclair-Chapman, and McKenzie 2005). Together, the state and its linkages rival in importance more traditional factors such as class or socioeconomic development. In this volume, Lieberman (chapter 9) particularly emphasizes the state's associational dimensions and their influence on democratization.

The state also acts as a site or nexus at which domestic political pressures and international forces commonly intersect, corresponding to another neglected dimension of Nettl's scheme (Skocpol 1979; Katznelson 2002b). Several important scholarly contributions, including Dan Kryder's essay (chapter 8), demonstrate how sensitive American leaders were, especially during the Cold War years, to foreign and international criticisms of domestic inequalities, especially with respect to civil rights, including criticism of international organizations such as the United Nations (Dudziak 2000). Finally, state institutions act as critical filters for and arbiters of contending cultural and ideological forces in national societies that might tend toward either expanding or inhibiting democratic practices and possibilities—ascriptive political culture directed at racial minorities or other groups, for example, or ideological attitudes about the legitimacy of an interventionist state (Maravall and Przeworski 2003; King and Smith 2005; Lieberman 2005). The results of democratization studies and observation of American political development plainly show that the state has fluctuated in this role, sometimes appearing to be captive to democracy-inhibiting societal attitudes—or worse, complicit in promoting segregation and ascriptive inequality—and at other times acting more or less decisively to protect civil rights and democratic inclusion for previously marginal and powerless groups. These and other findings suggest that a more capacious and supple view of the state and state building can illuminate new and urgent questions about how democratic practices have been, and can be, built and sustained in the United States. At the same time, the American case, with its distinctive state along all these dimensions, will help sharpen and advance the agenda of democratization studies.[11] So a key question for our collective examination of U.S. democratization is: does the state enable or prevent democratization or does its role oscillate between the two over time, and if it does oscillate, what factors account for this dynamic?

The second key democratization category, the enforceability of rights, is linked with the multidimensionality of the state. Legal institutions, for example,

are a constitutive part of modern states (Bensel 1980). They comprise a set of social relations ordered by general rules and generally backed up by a centralized coercive guarantee over a given territory. The issue of enforceable rights has been an important one in work on democratization. Many countries attempting to democratize have struggled to establish and maintain enforceable rights throughout their territory and to create and sustain a rule-of-law equilibrium (Weingast 1997; Rothstein 2000). At the same time, the discourse of rights and the rule of law have become increasingly universal, particularly in the post–World War II era (Sikkink 1993; Risse, Ropp, and Sikkink 1999). This has prompted an interest in what might be termed "aspirational rights" in democratizing countries (not unlike our characterization of Lincoln's aspirational invocation of the Declaration of Independence in the American case).

Enforceability itself has several dimensions, including the problem of ensuring a parity of legal and civil rights across the population and over time. The enforceability of rights depends, of course, not only on the specification of the rights to be enforced (in a written constitution or bill of rights, say, as elaborated by statutes and judicial precedent) but also on the state itself—its capacity and inclination to enforce rights, or at least to protect weaker citizens against the depredations of stronger ones. Thus the question of enforceability feeds back, to some degree, into the multiple dimensions of the state and raises further questions about the coercive resources of the state and whether they are sufficient to enforce rights and, at the same time, constrained enough so that the state does not itself become a predator. But there are also other ingredients of legal enforceability that are not reducible to any of the state's facets. These might be ideological, as in the conflict between liberalism and its illiberal challengers that runs deeply through American political development (R. Smith 1997). They might also be essentially cultural, as in the general level of social capital or trust in government (Putnam 2002). Or they might take institutional forms that diverge from the standard legislative-bureaucratic view of the state that forms the core of the American political development literature, as displayed in the evolution of civil rights enforcement in the United States through a combination of legal-judicial, social-mobilization, and private sector organizational means (Dobbin and Sutton 1998; Lieberman 2002a; Farhang 2003). The enforceability of rights in the United States, of course, appears rather different in comparative perspective, because it has long had strong, constitutionally entrenched rights. Yet the implementation of these rights has often been far from automatic, suggesting once again the importance of the contrast between aspirational and en-

forceable rights and between implemented and asserted rights—what might be thought of as the fundamental ideological tension of the modern state.

As with the state, questions of enforceability mark out a potentially fruitful area of intersection between the concerns of democratization and American political development. It seems clear, for example, that until the early twentieth century, and arguably until the New Deal, American national institutions were comparatively weak as instruments of rights enforcement, while state governments varied in their enforcement capacities and efforts. American liberalism, moreover, took a turn in the 1930s and 1940s away from concerns with the structure of the economy and toward a focus on rights, political and otherwise, and their enforcement (Brinkley 1995; Sandel 1996). How did this transformation affect the democratic character and possibilities of the United States? At the same time, historicizing the evolution of enforceable rights in the United States in this way might, by further undermining the presumptions of the United States' exceptional liberal political culture, contribute to a broader understanding of the conditions and possibilities for constructing such rights in other democratizing countries.

The problem of enforceability is central to Stephen Tuck's essay (chapter 6), in which he recounts how the collapse of federal intervention in the southern states after the 1870s and 1880s permitted the de jure and de facto disfranchisement of African Americans only recently emancipated. This dramatic reversal of voting rights was not simply a function of southern states' and politicians' actions: it also profoundly reflected federal action and inaction. The post-Reconstruction decades showed an engaged and active national politics led by the parties in Congress and the presidency. As Orren and Skowronek (2004: 179) observe, Reconstruction should itself be seen as a period of innovation and unprecedented federal activism: "the post–Civil War Congress entered into the boldest and most contentious period of its history by producing a spate of legislation to expand national power at the expense of the states" (see also Skowronek 1982; Argersinger 2001). Although expiring by the mid-1870s, the legacy of this activist national state endured, culminating in the demands and policies pioneered by Progressives. Following Reconstruction, as Kimberley Johnson (2007) shows, the expansion of national power did not abate; rather, it occurred largely through federalist policy instruments that harnessed the power of the state governments—creating precisely the conditions for the reversal of voting rights that Tuck chronicles. For our purposes, what is striking is how the main structural features of American government—Congress, the presidency, the bu-

reaucracy, the courts, federalism—fostered activism in support of the segregationist order, failing to exercise the new powers to enforce voting and other rights granted in the Thirteenth and Fourteenth Amendments and permitting the diffusion of segregation nationally (King 1995; Riley 1999; Klarman 2004; Skowronek 2006). The Supreme Court's upholding of segregation in 1896 (in *Plessy v. Ferguson*) put this system in place for well over half a century.[12] This failure to enforce rights was presaged in the Court's decision in the Civil Rights Cases of 1883, in which the justices adopted a minimalist view of federal powers, remarkably finding no authority in either the Thirteenth or Fourteenth Amendments to prohibit racial discrimination in places of public accommodation; the Court warned African Americans that they could no longer be "a special favorite of the laws."[13] In chapter 8, Kryder gives a vivid portrait of the problems of policing at the local level in the absence of a national state that can be relied on to enforce constitutionally guaranteed rights, particularly in the context of institutional segregation.

Framing Questions

Both the state and the enforceability of rights have been difficult and contentious questions in American political development, and their role in the United States' gradual process of democratization throws up a host of empirical questions that have long engaged historians and social scientists. Does the description of the United States before the 1960s as a restricted democracy, defined by an accommodation with racism in the South, adequately capture the complex way in which segregation and racism interweaved with Americans' lives throughout the polity? Is it, in fact, useful to think of the North-South sectional divide as the core of American history? Are the timing and pace of American democratization best explained by cultural animosities or by institutional rigidities such as the fragmentation of power? Was it the grassroots civil rights movement or executive leadership or international pressures (or some combination thereof) that made possible the passage of the Civil Rights Act in 1964 and Voting Rights Act in 1965?

These and other empirical questions can help guide us in formulating some of the theoretical puzzles about the United States as a case of democratization. One key theoretical question is the extent to which we can determine the state's role in hindering or facilitating democratization and the nature of the state as a measurable set of attributes. How do various aspects of the state become more

important relative to, for example, class in shaping transitions to democracy? How does the state or aspects of stateness such as the state's capacity and willingness to implement and uphold the rule of law reflect ideological and cultural choices as well as material interests and electoral calculations?

Building on Laurence Whitehead's work, we argue that democratization is inherently a long-term and unending process, and not necessarily a progressive one—that is, changes can occur that pose unexpected challenges for democratic institutions and threaten to reverse even apparently settled democratic rights and processes, as in the reversal of African Americans' voting rights and the rise of Jim Crow in the South at the end of the nineteenth century (Woodward 1974; Valelly 1995; Kousser 1999). But there are also key moments and events—such as war or expansion of the franchise or significant legal reforms—that facilitate or hinder the establishment of democratic institutions. Thinking about these analytical configurations more systematically, we might want to look at the following conceptual issues.

First, we need to identify long-term cumulative forces in the historical-institutional narrative of American political development that prove to be sources of mobilization for democracy building.[14] Some examples are the founding, expansion, and mobilization of the civil rights movement from the 1940s through the 1960s. This movement obviously drew massively on other forms of protest for civil rights, observable during the nineteenth and early twentieth centuries, but its effect grew in the 1950s and 1960s. Another example is the growth of national state resources and capacities: before the New Deal, the federal government had fewer departments and resources than those available in more highly centralized polities. The growth of government during the New Deal, during wartime mobilization, and in the 1950s in response to the Cold War cumulatively expanded the capacity of the national state to intervene in society and mostly increased the legitimacy of such interventions (although these characteristics—legitimacy and perceptions of federal capacities and inclinations—varied widely across groups, especially by race and ethnicity). These slow and fairly gradual changes came together in the post-1965 push to implement voting and civil rights.

These trends, moreover, need to be linked to parallel long-term changes that affect the conditions under which democratization in the United States has unfolded. These changes take several forms, including macrosociological trends, such as the mass migration of African Americans from South to North in the twentieth century, or institutional developments, such as gradual ideological

changes in the Supreme Court's rulings about the constitutionality of segregation or the steady enhancement of the federal government's capacity to intervene and enforce civil rights.

Second, can we usefully distinguish galvanizing factors or events that decisively shifted the democratization path of the United States? Did, for example, the lynching of Emmett Till, which sparked widespread international attention and domestic outrage, give the civil rights movement a decisive boost (F. Harris 2002)? Or might we think about World War II as a galvanizing event with several effects: the politicization of African Americans, both those who served in the war and those in communities at home; the successful model of protest achieved by A. Philip Randolph in his March on Washington movement; the delegitimation of "racial science" and other pseudo-doctrines; or the aspirations of individual rights institutionalized in the United Nations and expressed in anticolonial movements? These changes were mostly underway before the war, but in the absence of the war would probably have taken far longer to emerge as significant political forces (Klinkner and Smith 1999). We can imagine other instances of galvanizing factors and events.

Third, we also need to consider instances of failure to democratize, not to mention reversals of democratization. Why, for instance, was World War I followed by fierce repression of African Americans and unwillingness to acknowledge the wartime roles of African American veterans? Ought we to examine both changes in organizational strategies, tactics, and resources among social movements struggling for reform and developments in the state's capacities, as distinct from willingness, to respond to such demands?

Finally, linked analytically to these questions is the identification of critical junctures of democratization in the United States, critical junctures understood in Collier and Collier's (1991: 29) definition as a "period of significant change, which occurs in distinct ways in different countries . . . and which is hypothesized to produce distinct legacies." What were the critical junctures in this historical process, and what can we learn about democratization from identifying and unpacking the contingent circumstances and political forces affecting democracy building (either by advancing or hindering it)? These also might take numerous forms—institutional (changes in congressional structure, for instance), ideological (a rising commitment to civil rights), or political (conditions created by wartime mobilization).

These substantive and methodological considerations provoke what are perhaps the central questions that we seek to pose. Proceeding on the assumption

that these key variables—the multidimensional state and the enforceability of rights—have been critical to democratization in the United States, it seems clear that these mechanisms have at some times advanced and at other times constrained or trammeled democratization. But when and why does this relationship go one way or the other? What factors, which particular components of stateness and enforceability, can direct the process of democratization down one or another of these paths? In what combinations? By what mechanisms? When and under what conditions can the state push democratization forward, and when is it a fetter, holding democratization back or even reversing prior advances? We hope these are the fundamental questions that further inquiry will address.

CHAPTER TWO

Two Comparative Democratization Perspectives

"Brown Areas" and "Immanence"

Guillermo O'Donnell and Laurence Whitehead

The authors of this chapter have worked closely together for a quarter-century on the comparative analysis of democratization processes, and have shared a common outlook during the course of this collaborative project. Both consider that the comparative democratization literature can be usefully broadened and substantively enriched by inclusion of the U.S. case, and both are struck by the parallels that exist between themes in that literature and topics addressed by the American political development perspective (as found throughout this volume). We have selected two such themes for closer attention. The first is geopolitical and concerns the uneven distribution of democratic practices within any given national political regime; the second is historical and addresses the tendency of existing democratic regimes to project backward in time the characteristics they use to define themselves. Both themes are comparative; however, in both cases, U.S. democracy can be seen as an outlier. The strength of the United States' democratic "civic religion" is such that it tends to override or obscure the spatial and temporal features of "American" politics that limit the extent of the actual democratization of the republic and thereby render it more comparable to other "really existing" democracies. The intensity of this unstated conviction about the exceptionalism of the U.S. case can be traced through the tacit use of this case as the standard of excellence by which all other democracies can be judged and through the unanalyzed academic practice of studying U.S. politics in isolation, as if the regime were incomparable. We believe that U.S. politics can and should be compared, albeit with due regard for

its exceptional features. Taken together, the two parts of this chapter express the position of the two authors. However, because the style and angle of each author's contribution reflects his personal profile, we decided to divide the chapter into two sections. O'Donnell prepared the first and Whitehead the second.

Democratization and "Brown Areas" in the Americas
Guillermo O'Donnell

My work has centered on Latin American issues, including the region's past authoritarian regimes and its current experience with democratization. For quite a long time I lived and taught in the United States, but I am not an expert on its politics. So what follows is an assortment of commentaries originating in the study of Latin America that might be usefully applied in a comparison with the United States. Writing elsewhere (O'Donnell 1993, 2001), I have called attention to some problems that current democratic theory has not prepared us to deal with: the limited and uneven penetration of national state institutions across the territory the state supposedly delimits; the discontinuous effectiveness of the application of national law in that territory, characterized by frequent violations of basic civil rights together with the formal attribution of political citizenship to all or most inhabitants; and the coexistence of subnational authoritarian regimes with national-level regimes that, by and large, meet the requirements usually stipulated for considering a regime a political democracy (namely, holding reasonably fair and competitive elections and upholding some basic "political" freedoms, such as freedom of expression, association, and movement) (O'Donnell 1993, 2001). Although these requirements are, of course, closely interrelated, it is convenient to distinguish among them for analytical and empirical reasons. Most contemporary democratic theory assumes that none of the problems, or deficits, noted above exist; they are simply assumed away, which entails assuming that the territorial hold of the state and the reach of its laws are basically homogeneous and, further, that if the country has a democratic regime at the national level, then subnational regimes are also democratic. (This is the case in Dahl 1998: 153.)

I believe that the main reason for these assumptions is that, by and large—and not without a dose of idealization on the part of their respective countries—such problems did not prevail in most of the northwestern world at the time when universal male suffrage was achieved. There is evidence, however, that those same problems were present at least until the 1960s in the country that is

the focus of study in this volume: the United States. Yet these matters have been ignored by most mainstream political scientists in the United States, including its democratic theorists. In some cases, such as in some of the work by Seymour Martin Lipset (1963), the omission is complete; in others—even in the work of an author as lucid and critical as Robert Dahl—slavery, for instance, is relegated to a passing footnote after the author makes the usual assertion that in the United States, democracy is coeval with the sanction of the Constitution. This literature has ignored the valuable contributions of some historians, and it is only quite recently that critically and/or historically oriented political scientists and sociologists, especially those affiliated with the American political development current, have begun to fill this gap.

To deal with an issue, one must do more than simply mention it. In the case of the United States, this means doing at least three things. The first task is to properly date the emergence of U.S. political democracy, not according to exacting standards but according to the rather narrow neo-Schumpeterian and/or Dahlian criteria, now widely accepted (by myself included), that serve to qualify a country as democratic. In this respect, as I have noted elsewhere (O'Donnell 1993, 2001) and as King and Lieberman persuasively argue in chapter 1, the date should be set in the 1960s. The second task is to trace the interactions between, on the one hand, a democratic political regime at the national center and, on the other, authoritarian traits at the subnational level and the impact of the above-mentioned problems. The third task presupposes important progress with the second and so is the least developed (one important reason that this volume is so timely). The goal is to identify the impact of the legacies of these factors on current democratic characteristics and to examine the results from a comparative perspective, looking both at countries that suffered such problems with less intensity, or in the more distant past, than the United States, and at countries that suffered (and still suffer) those problems often with greater intensity and for a longer period than the United States. (As is well known, in U.S. universities the study of the United States is "American politics" and of the rest of the world is "comparative politics." The implicit but strongly institutionalized assertion of "American exceptionalism"—and within it, often, an acritical view of the origins and characteristics of its democracy—is not conducive to good comparative work.)

As already noted, most of contemporary democratic theory assumes that if national-level regimes are democratic, then subnational ones must be as well. This assumption is untenable in several contemporary Latin American countries and elsewhere in the world, both South and East. And it was untenable in

the United States for a good part of its history. Tocqueville may have been one of the first culprits: he studied the Northeast, and although merely glancing at the South, he attributed to the whole of "America" the democracy he had observed in the Northeast.

This is not just a matter of static political topography. Under a national democratic regime, what I have called the "brown" jurisdictions (those that are authoritarian and where the reach of national legality is at best intermittent) do send representatives to the national center. (I allude here to O'Donnell 1993, where I draw a metaphorical map of various actors in which "brown" indicates areas where the national state's institutions and legal reach are barely present or entirely absent.) If those jurisdictions are not only numerous but also overrepresented at the national center—particularly, but not exclusively, in the Senate—then they can heavily influence the making and vetoing of national public policy. This influence is exerted not only at the level of Congress; it also operates through the great interest that "brown" politicians take in appointments to government departments and boards with resources and attributes that interest their regions and—what is no less important and significant—in the appointment of judges with jurisdiction over these regions. Insofar as factions and individuals such as these control national government agencies, they increase their chance of sharing the spoils of the system as a whole; and as they control national judicial appointments, they interpose a powerful barrier to the effectiveness of the national state's legal system. U.S. presidential elections are also affected by the Electoral College, which treats states rather than citizens as the electoral units.

The policy preferences of "brown" politicians are basically opportunistic: they support whatever currents at the center uphold or, at least, do not threaten their dominion in their regions. Although I do not know of detailed assessments, it is my impression that, apart from some alliances of convenience with progressive forces at the national center (as apparently was the case for some time during the New Deal), on balance, this influence has been deeply conservative, both in the United States and elsewhere.

The history of these brown regions has an invariably labor-repressive social basis, whether in the form of slavery or as various types of semi-serfdom. Whatever the economic concomitants of this pattern, it generates a very unequal social structure supported by a deeply ingrained social authoritarianism, which tends to persist well after the labor-repressive practices have been abolished. Further, the idealized memory of the "good old days" of landholding and patriarchal domination tends to be resurrected in conservative, if not reactionary,

ideologies, which often are also based on a moralistic condemnation of modern, urban life. The opportunism of the politicians of these regions, their enduring social authoritarianism, and the conservatism of the ideologies they uphold all come together to generate two fundamental problems: truncated, intermittent, and socially biased civil rights (in the European, Marshallian, sense) and the late, slow, and poor evolution of social rights.

On the first point, it is apparent that gender rights, fair access to the judiciary, respectful treatment in public spaces and public offices, protection against police violence, and the like, have been and still are more curtailed in parts of the South than in other regions of the United States. An important indication of the resilience of authoritarian domination, and of the concomitantly structured weakness of subordinated sectors therein, is that, in most cases I know—including the United States—the crucial policies that improved the brown regions were triggered by endogenous protests but were actually exogenously mandated by the national center, and only after a long history of repression, vetoes, and blocking coalitions by the dominant sectors and classes of those regions.

On the second point, deficits in social rights are a direct consequence of the very uneven distribution of power in the brown regions. This hampers the evolution of such rights not only in these regions but in the country as a whole; it operates as a major barrier to implementation of the more comprehensive and universalistic social policies found in other highly developed but significantly more homogeneous countries. Another phenomenon is also relevant in this context: the waves of internal migration that periodically pull population toward regions with the likelihood of living and working conditions better than the often dismal conditions prevailing in the brown regions. This cheap labor is usually welcomed at the center, but the consequence is to reinforce a pattern of social and regional inequality that is significantly higher than that observed in more homogeneous countries at similar levels of development.

Loaded Dice and Paths to Democratization

The preceding discussion provides a highly simplified characterization of many Latin American countries. It is intended as *de te fabula narratur* (loosely, "this is your story") when applied to the United States. But some precisions are now in order. There are some Latin American countries that do not fit the above characterization, in the sense that all their political subunits are democratic and the reach of the state and its laws is more or less complete: this is the case for Costa

Rica and Uruguay and, with some caveats, Chile. It is surely no accident that, in spite of the authoritarian interregna in Uruguay and Chile, these are the oldest functioning democracies in Latin America and their regimes work in ways that are not too different from those of the northwestern countries. Equally, it is notable that—with the special exception of Cuba—Costa Rica and Uruguay, the two states that were never based on labor-repressive practices, are also the most egalitarian countries on the subcontinent.

For the United States, the problems referred to above are seen as problems of the past. But this is true only to some extent, given their reverberations in current patterns of de facto discrimination against various minorities, a variety of social policies that do not amount to a welfare state of any kind, and an extent of poverty that is appalling for such a rich country. These reverberations may also be felt in the remarkable fact that primordial, ultraconservative ideologies full of moralistic tones win political victories from time to time.

Appropriating one of Weber's metaphors, perhaps the dice were loaded when the Framers of the U.S. Constitution avoided facing the issue of slavery, just as the framers of Latin American constitutions avoided dealing with slavery and the enserfment, if not the genocide, of indigenous populations. In the United States, not until the 1960s did the country come to terms with one of the consequences of that constitutional omission: the exclusion from political citizenship of vast segments of the population. This took even longer in Latin America, which was subject to even more convoluted processes, including (as in the United States) civil wars and (in contrast to the United States) bloody authoritarian rule and transitions to shaky democracies. Furthermore, in most of Latin America, the other problems noted above still exist, leaving their vigorous mark on what is done and not done, and how and with whom, in national politics and policy. There is one aspect, however, in which large parts of contemporary Latin America may be better off than the United States of the past: for a variety of reasons, even in the brown regions of Latin America, national elections are reasonably fair and competitive, even if local elections are not. This fact can open doors for democratizing policies and actors that, in the United States, remained closed when all kinds of elections were vitiated.

Paths to democratization can be classified in many ways. From the perspective sketched here, two broad paths may be distinguished. One was traversed by several countries in western Europe, where a relatively high degree of homogeneity of populations and territories was already in place by the time universal male suffrage was instituted. In terms of the theoretical framework of the pres-

ent volume, the tasks of state-making and, to a significant degree, nation-making had been largely accomplished by that time. Of course, the price for this was the enormous violence that accompanied the more or less comprehensive territorial and social penetration of central state institutions and law, the achievement of a basic set of civil rights (albeit, initially, only for the male population), and the imposition of a national language. In these countries, the national state, with an increasingly democratized regime, imposed across most of its territory and population a legality that homogeneously sanctioned rules and rights consonant with that kind of regime.

The other path is that traversed first by the United States, then by India, and subsequently by many eastern and southern states, including most states of Latin America. In these cases, the democratic regime rested (in the U.S. case), or continues to rest (in most other countries in this roughly defined category), on a social foundation containing strong pockets of political and social authoritarianism. Even if one leaves aside the important differences stemming from the highly successful economic and geopolitical trajectory of the United States, I believe there are useful lessons to be learned from the mixed success of the U.S. historical trajectory. I refer to the fact that this country is, on the one hand, far from eliminating the negative legacies of its starting point, but it has, on the other hand, made progress in taming the consequences of those legacies. By contrast, in parts of Latin America and elsewhere, it is an open question whether such progress can be achieved or whether the heavy weight of these legacies will end up devouring, or subverting, the existing democracies.

To learn something about these matters—the aim of these reflections and of this present volume—it would be helpful to look at the United States in a systematically comparative framework. One way to do this would be to draw something like a map of initial conditions, as sketched above (although, of course, much refined), and then to trace how and in what sense those initial conditions loaded the dice during the critical junctures (Collier and Collier 1991/2002) when some of the resulting constraints were overcome or alleviated.

The United States and America

I wish to speculate here on a point that may contain reverberations of the factors discussed above. I engage in admittedly loose speculations about a rather idiosyncratic theme, but I do so with the intention of putting on the agenda a topic that is otherwise absent from the excellent chapters in this volume, but one that may

be central to the study of the U.S. political trajectory. I refer to some conceptions of nationality and nationalism that seem to prevail in the United States.

The United States is often referred to as "America," even by academics who should know better. An early culprit was surely, yet again, Tocqueville, who called the country by the name of the much larger continent of which it is a part. The usage of this synecdoche is not particularly persuasive; in many countries, from the southernmost to the northernmost tip of the continent, the famous dictum of the Monroe Doctrine, "America for the Americans," has an ominous ring. I do not know of any other country that, however powerful, has perpetrated such a rhetorical appropriation. Is this a barely meaningful fact, emphasized only because of the touchiness of the citizens of other, less powerful countries in the Americas? Or is it revealing of a nationalism that needs deciphering, particularly in its relationship with countries and cultures the specificity—and consequently the worthiness—of which it has great difficulty "seeing"?

I believe that some characteristics of U.S. history (discussed by Whitehead in the rest of this chapter) make it difficult for important segments of U.S. culture to truly recognize "the other" (see Patterson 1991; Fredrickson 2003). With few exceptions (prominently Canada), the rest of the American continent does not offer great examples of "democratic-ness" and economic development. Indeed, much of Latin America offers rather rich material—expressed in manifold ways, including films, television shows, and casual conversation—that only bolsters the negative stereotyping about "Latinos" that recurrently emerges in the United States. On these occasions, as well as in public discourse, and even (despite my reservations) in the title of this volume, the United States is not the "United States": it is "America." This is an obvious synecdoche, using the name of the whole (a huge and diverse continent) for one of its component parts. The rhetorical appropriation of a whole, immense continent may be the expression, cemented through long usage, of a serious difficulty in recognizing the autonomy of cultural entities and identities that lie outside a country as affluent and powerful as the United States.

Introducing "Immanent" Democracies

Laurence Whitehead

What kind of democracy has been created in the United States? Is it incomparable? Or can comparative democratization scholars include the United States within their universe of historical case studies, while at the same time doing jus-

tice to the precocity and particularity of this exceptional case? The idea of the United States as the world's outstanding pioneer and leading instantiation of political democracy poses a substantial challenge to students of comparative politics who have concerned themselves with democratization in all other world regions, including Europe and Latin America. No country has a more developed political science profession than the United States: indeed, many have come to view the discipline as a quintessential reflection of the United States' pluralist and democratic culture. This great scholarly industry certainly includes contributions from a multiplicity of standpoints, including the highly critical. One can therefore find extensive questioning of the various virtues claimed for U.S. democracy, together with an exhaustive literature on every aspect of the history of democratization in the republic (including the path deviations). But most of this research is framed within the context of an assumed "American exceptionalism" that has discouraged many students of American political science, and even some students of American political development, from specifying precisely how they relate the construction of democracy in the United States to processes of democratization in all other jurisdictions.

Here I propose to introduce a new category of democratic regime, one that could help scholars locate the U.S. case within the larger field, and one that might also illuminate some striking characteristics of U.S. public policy affecting Washington's posture toward other democracies, both old and new. My new category is that of an "immanent" democracy, namely, a regime so confident of its inherently democratic status that external comparison can be treated as superfluous, and other contenders need only be assessed by the extent to which they either match or fall short of the standard there achieved. From a comparative perspective, this proposal raises a number of complex issues. In what sense can the United States be classified as an "immanent" democracy? Is this to be understood as an objective truth about the politics of the United States? Or is it to be seen as a debatable set of partially subjective beliefs and uncontested assumptions, a patriotic "creation myth," like the Chinese people's conviction that their country is at the heart of human civilization, or traditional English superiority about "our island nation"? If there is a subjective component, who is supposed to be the carrier of these beliefs? Is it all right-thinking Americans, or the nation's elites and opinion-formers? Or is it equally important that these beliefs should be accepted and reflected back to the United States by prevailing opinion in the rest of the world? If U.S. democracy is either established to be, or perceived as, immanent, does that make it unique and therefore arguably incompa-

rable? Or is it just one in a subset of immanent democracies? What, in any case, are the origins of this condition? There is already a rich store of hypotheses and interpretations about this in the literature on U.S. political exceptionalism, but, as far as I know, these comparative questions have not yet been posed in this way, because the United States has been assumed to be a case apart from all others. So what follows is, in comparative terms, an exploratory discussion of all these issues. Further work both by comparativists and by specialists in U.S. politics would be required to move beyond this preliminary stage.

"Immanence" as a Comparative Category

An "immanent" democracy must, as a prerequisite, have established itself as a leading member of the larger subset, conventionally designated by the comparative politics community as "consolidated" democratic regimes. So it must be a securely established national state in which democratic rules and procedures have become accepted by all significant participants as "the only" basis for the allocation and reassignment of major public offices. The relationship between national regime longevity and this notion of "consolidation" may not be entirely straightforward, because "hybrid" democratic regimes may persist for a very long time without necessarily reaching full "consolidation," and also because some relatively recent democracies may seem closer to that state than other, older ones. (But, of course, the United States is generally rated as the oldest of all and is also believed to be very securely established.) This acceptance by political actors, civil society, and public opinion at large should have become so institutionalized and so reinforced by the weight of routine that it no longer encounters significant dissent or risk of disturbance. But there is more to immanence than this. Beyond these standard elements of the consolidation paradigm, an immanent democracy would need to display some additional features. Its ethos and procedures would need to be so fully accepted—indeed, actively embraced—as an integral part of the collective identity that its permanence would be viewed as unquestionable and coterminous with the survival of the nation itself ("as we know it"). Note that the emphasis here is on how the society views itself, which is not necessarily an objective reading of the historical record. "Immanence" is a state of mind, a subjective outlook expressing an inner (or inherent) condition. According to this self-understanding, the permanence of the condition of democracy involves an assumption that it was, in some sense, there from the beginning.

Samuel Huntington (2004b) has written in this vein, of democracy as "America's creedal passion," but the United States is not necessarily unique in this respect. Something similar might be said of Costa Rica, for example, or of Switzerland. The English project their political freedoms back to the Magna Carta; the French to the Declaration of the Rights of Man. Any apparently discordant empirical evidence—either past, such as slavery, or present, such as emerged in Florida during the presidential election of 2000—would therefore be absorbed, or set aside, because of the strength of the underlying consensus on the inherently democratic character of the society, which could therefore be relied upon to shine out. One of the manifestations of a state of immanence is that it can be expected to "shine out" and thus to more than compensate for any observed historical or institutional failings. Other democratic regimes (even some of those currently classified as "consolidated"), by contrast, may be troubled by reminders of an undemocratic past and may therefore seek reassurance against the possibilities of relapse. The citizens of an immanent democracy would resist viewing their system as still "on probation," and might indeed have difficulty seeing it as ever having been other than fully democratic. For this reason, whereas most consolidated democracies may nevertheless accept the pertinence of comparative democracy ratings and audits, public opinion in an immanent democracy is more likely to react to such proposals by viewing their system as incomparable, and to rebuff any critical external assessments by negative stereotyping of the alternatives.

Immanence is therefore essentially an intersubjective condition, but it is also proposed as a type of democratic regime. The relationship between these two aspects can be specified as follows.

As presented here, "immanence" is a widely shared and deeply embedded set of collective attitudes and beliefs about a given country's political system. This can be reexpressed in terms of a "civic religion," or even a "political culture"—either of which also directs our attention to the shared convictions of the population. The relationship between a society's subjective outlook and the more objective features of its political regime is not completely straightforward. On the one hand, when citizens view their regime as an immanent democracy, such beliefs may reinforce its resilience, its capacity to absorb and rebound from episodic setbacks (e.g., the near impeachment of a president or the election of a presidential candidate who was defeated in the popular vote). Indeed, the high expectations associated with immanence may at times press upon the system to upgrade its standard of democratic performance. But, on the other hand, the

emotional intensity of these shared convictions may also impede a realistic assessment of the system's internal deficiencies and can impede receptivity to alternative democratic models and to lessons from elsewhere.

These elaborations of the proposed category should suffice to make clear that its application to a particular case does not require any demonstration that, as a matter of objective fact, the country in question can always be relied on to "outshine" others in its commitment to democratic values and procedures. What is required above all is good evidence that both its leaders and its citizens generally agree on that assessment. Their agreement may be well-founded, or it could be based on overconfidence and a reluctance to consider external yardsticks. Either way, it is the collective consensus that establishes the immanence of the democracy and generates the distinctive patterns of political behavior that can be associated with this subtype of regime. For such a conviction to take firm hold of a nation's collective imagination, there are probably additional, fairly binding requirements, such as some robust "objective" indicators (including, for example, the holding of regular competitive elections over an extended time period). It may also be very important to the domestic consensus that influential observers in the rest of the world also share the same assessment. (Such additional requirements hold true for the United States, but also for Costa Rica, Switzerland, and so on.) If a country's democratic credentials are viewed collectively as incomparable or beyond question, then its leaders are likely to react differently from those of any self-doubting democratic regime, in relation to both internal evidence of institutional deficiencies and external criticism. Moreover, one might expect leaders of immanent democracies to view promotion of democracy overseas more one-sidedly than would politicians contemplating actions that might, at some time, be thought applicable to their own country.

Considering the U.S. Case

With these clarifications of "immanence" in mind, we can now turn to the comparative questions that arise if the proposed category is used to assess democracy and democratization in the United States. Clearly, this instance of democratization involves a trajectory and dynamic that cannot simply be read off from standard comparative politics modeling. So, what terms and concepts are appropriate for interrogating the U.S. experience?

According to one very influential strand of thought in political science, a democratic regime is one in which certain institutional "rules of the game" have

been established and accepted by all significant political actors. By this definition, it would be possible to view the Constitutional Convention of 1787 as the foundational moment when the United States was created and when its Founders defined, once and for all, the rules of the political game. In this view, the United States indeed might be rated as the earliest, most long-lived and continuous democratic regime in the world, unbroken since its foundation. However, there are several evident problems with projecting back into the 1780s any designation of a political system as "democratic." As Dahl has persuasively demonstrated, even the present-day, updated version of the 1787 Constitution is quite hard to reconcile with standard modern conceptions of democracy. In any case, late-eighteenth-century North America was a place of slaveholding, property qualifications, the subordination of women, the dispossession of African Americans, the expulsion to Canada of Empire Loyalists, and so forth. Such realities support the notion that the period until the 1830s was less democratic than a form of quasi-republicanism based on deference. Madison assumed in "Federalist No. 14" that "democracy" must be direct, in contrast to representative government, and the word "democrat" was still being used as a term of abuse (it helped to earn the "beast of Vermont," Congressman Matthew Lyon, a spell of imprisonment for sedition in 1798–99).[1] "Jefferson himself had seldom used the word 'democracy' in his public statements or private letters prior to 1800, and he did not start doing so once elected . . . the operative word was 'republican' rather than 'democratic' " (Ellis 1998: 163). The Founders were inspired by the classics, particularly the Romans, so for them the noblest state was the republican, whereas "democratic" referred more to the rabble. In any case, the alternative view adopted here is that democratization involves more than just the formal agreement to conduct national politics within a particular framework of institutional rules. After all, if that were the only requirement, then Nigerian democratization would have been completed on the day the British handed over sovereignty in October 1960.

On this alternative view, even if an agreed framework of democratic rules has already been put in place at the national level (a process begun in the 1790s in the United States but not finished until 1965—or perhaps not even then), the completion of democratization requires a subsequent process of learning, testing, and adapting the initial framework, until its assumptions have been accepted and internalized by all significant political actors—a process that, on the most optimistic of assumptions, can be expected to take a decade or more. Moreover, even this assumes that the initial framework of rules is unquestionably

democratic. But when the comparativist extends the analysis back from the early twenty-first to the late eighteenth century (as in the case of the United States), this assumption—that the initial framework of rules is unquestionably democratic—can hardly be taken as given. After all, it is far from self-evident what allowances should be made for the different beliefs and possibilities of an earlier era when labeling its practices "democratic." Whatever standpoint one adopts on this question, the comparativist must take care to apply comparable standards to other cases in the same period (to Corsica after 1760, or to Iceland, or indeed Barbados, for instance). This highlights the partly normative, and not purely empirical, content of the act of "democratic" labeling.

So, how compelling is the objective evidence that the United States has always been outstandingly democratic? A good place to start tackling this issue is the University of Maryland's Polity IV dataset on political regime characteristics and transitions from autocracy to democracy (covering the period 1800–2004). Of a maximum democracy score of 10, the score for the United States is 7 initially (1800–1808), rising to 9 for 1809–44, and 10 for 1845–49. Its score is reduced to 9 in 1850, and to 7 in 1854 (until the end of the Civil War in 1864). It then rises again to 8 for 1865–70, and back to a perfect 10 for 1871–2004. Polity IV also awards an annual "autocracy" score, from zero to 10. On this second indicator, the United States scores zero for autocracy in every year from 1800 to 2004, except in the immediate post–Civil War years of Yankee "Reconstruction," with the sending of "carpetbaggers" to rule the defeated South. Presumably in recognition of this, from 1865 to 1870 the United States receives a score of 1 on the Policy IV autocracy scale. For comparison, Policy IV rates Canada annually since 1878. The democracy score is 7 until 1887, then 9 until 1920, and a perfect 10 since 1921. The autocracy score is 3 until 1887, zero thereafter.

Polity IV is widely used in comparative politics and so provides a vivid contemporary illustration of how readily the largest community of political scientists in the world endorses the tacit assumption of U.S. patriots that their specific political regime constitutes the paradigmatic case of a democracy virtually *ex ovo.* U.S. democracy could be awarded a perfect 10 on this schema, notwithstanding the prevalence—and expansion—of slavery (1845–49), or of Jim Crow laws and segregation (after 1871). The spectacularly fraudulent presidential election of 1876 (which ended Reconstruction and paved the way to Klan control of many "brown" areas of the South) elicits not a quiver of doubt from these quantifying custodians of democratic polity.

If democratization is an essentially contested concept and a process that combines normative (approbatory) and descriptive components (see Whitehead 2002), this is all the more true of the emergence of an "immanent" democracy (one that is so fully accepted and internalized that its existence becomes an article of faith, not subject to doubt just because of flawed election procedures in, say, Florida in 2000).

Uniqueness, Comparability, and "Immanence"

It has been argued that the United States is the "first new nation," the first instance where democratic theorizing and institutional design preceded the establishment of a sovereign state. It might also be argued that the United States is not just the first new democracy but is also the one least constrained by its predemocratic antecedents, and also now the greatest of all the world's democracies (economically and militarily the strongest and the most socially embedded, most robust, and most inwardly self-confident). Eric Foner's (1999: 65) formulation captures this idea pithily: "In a country that lacked more traditional bases of nationality—a powerful and menacing neighbor, historic, ethnic, religious, and cultural unity—America's democratic political institutions came to define the nation as a whole" (by the 1830s). Moreover, there is a definite strand in U.S. thought asserting the argument, belief, or presupposition that American democracy is unique, exceptional, and even, in crucial respects, incomparable. This idea is not pure invention: it can trace distinguished intellectual antecedents and can marshal some worthwhile supporting evidence. There is a very broad consensus both in the United States and beyond that the United States is the world's leading democracy. Indeed, this widespread and popular conviction may be described as an article of faith. To question it would be not merely to initiate a scholarly debate but to unsettle strongly held beliefs that anchor Americans' sense of their collective identity.

There are powerful objective indicators that can be cited: an unbroken record of competitive elections held under essentially the same constitutional system since 1788; the persistence of many citizens' rights and legal protections, even (with some nontrivial qualifications) during such adverse conditions as the Civil War, the two world wars, and the Cold War; and the ineradicable unity and flexibility of the federal compact. There are equally powerful subjective components of this discourse: the symbolic status accorded to the Founders of the republic and to such key leaders as Abraham Lincoln; the constant affirmation of

"American" ideas about justice and the law, through the media, the schools, and the entertainment industry; and the reconfirmation of U.S. leadership in this field that is provided through these same channels when national practices and assumptions are contrasted with the often less satisfactory conditions prevailing in almost all other parts of the world. So, from the standpoint of much contemporary domestic opinion, and of many opinion-formers outside the United States, it is both demonstrably true, and a matter of patriotic pride, that the United States incarnates the "last best hope" of humankind in the realms of political freedom and democratic governance (as well as in other domains, both economic and social). Of course, this patriotic sentiment refers to Anglo America, and the "last best hope" image makes particular sense to those who arrived as escapees from an unjust and oppressive Old World. It is far less plausible for African Americans or Native Americans, given their historical memories, and for Hispanics it competes with an alternative culture and tradition that retains some traction (e.g., in Puerto Rico). This patriotic fusion of objective evidence and mainstream subjective perception is the hallmark of the characterization of U.S. democracy as "immanent." From the standpoint of those most intensely socialized into U.S. society, the nation's democratic quality shines out in such a way that it would require an effort of will to question a truth that seems so evident. Doubters are aware that any objections they raise may attract the taint of disloyalty. Another way of stating the same idea would be to follow S. N. Eisenstadt (2002) and describe democracy as the "civil religion" of the United States.

It is important to distinguish between two standpoints that are easily conflated here: "from the outside, looking in" and "from the inside, looking out." In the case of both immanence and civic religion, it is possible for the dispassionate analyst to observe that these characteristics are found (to a greater or lesser extent) in some societies but not in others. That is the "outside, looking in" perspective of the comparativist. But, especially in a society as intensely socialized and as internationally influential as that of the United States, there is also an "inside, looking out" perspective on immanence and on civic religion. Here, the collective conviction that indeed "our identity is inherently democratic" can condition the way both Americans and their external admirers think about what it is to be "an American" to such an extent that contrary evidence loses its power to persuade and other examples of democratic immanence do not engage the same intensity of allegiance. From this second perspective, the democratic immanence of the United States may indeed seem incomparable, whereas from the first standpoint it is merely a more pronounced version of a recurrent phenomenon.

So the comparativist is bound to point out that some other long-established democracies are also able to construct and buttress similar legitimating myths ("myth" in the sense of a shared belief about the past that owes its grip on the collective imagination more to its identity function than to its truth content). For example, something similar is true of Sweden, Switzerland, and the United Kingdom, and perhaps even of Costa Rica and Iceland. Yet all of these *can* be compared with democratic theory, and with each other. What any such comparison might uncover is certain unique attributes distinguishing the example under consideration (whether the United States or Switzerland) from all others and limiting the applicability of all decontextualized models and theories. There will always be various facets to the affirmative case, and it is not necessary to endorse them all. So it is possible to compare a cluster of democracies, each prone to collective belief that its experience is incomparable. That is the issue of comparability addressed here.

This chapter seeks to resolve the apparent contradiction involved in comparing societies whose members may see themselves as exceptional, and they may even believe incomparable, by assigning them to a new subset of self-confident and assertive democracies. It places the United States at the heart of this grouping. U.S. democracy may be pristine (the very first of its kind), and it may be more self-confident and assertive than the others, but these key features of the subset can also be traced elsewhere. The proposed subset is "immanent" democracies, meaning political communities infused by a conviction in their own inward democratic-ness. Here, democracy is interpreted as a quality radiating out from these societies, as a constitutive given, rather than as something precarious or laboriously constructed. Many new democracies (and some old ones) are conscious of their fragilities and inadequacies. My proposal identifies a minority of immanent democracies that are more assured and less open to self-doubt, and I suggest the United States is a leading (but not the sole) exemplar of this subcategory.

Where do the two scholarly traditions of American political development and comparative democratization stand on the question of the immanence and comparability of U.S. democracy? My starting point is the observation that neither of them has displayed much inclination to challenge this contention directly. It is true that "political development" requires an interest in processes of historical advance and therefore raises questions about a less developed past that (at some point) must have been pre-democratic. But in the mainstream of American political development analysis only the development of U.S. politics is considered, so the task of locating this process in a broader set of national experi-

ences is easy to overlook. To put the point as clinically as possible, the intellectual agenda of the American political development literature may not require its practitioners to focus on this question either one way or the other. It can be held in abeyance while the focus of inquiry is directed elsewhere.

Similarly, I can think of surprisingly little direct reflection in the comparative democratization tradition on whether or not the models and generalizations proposed for all other emerging democracies are also applicable to the United States. There are certainly numerous studies that *do* include the United States as just one more "reporting unit." But there are also striking controversies in the literature that exclude the United States from consideration, even though, on the face of it, U.S. experience ought to be of the greatest relevance (for instance, in the "presidentialism vs. parliamentarism" debate, or in discussions about whether religious fundamentalism can be reconciled with secular tolerance, or perceptions concerning the "best practice" design of electoral systems). Is not the comparative democratization tradition really required, as part of its operating assumptions, *either* consciously to incorporate U.S. experience into its analysis (and to assume the consequences of so doing) *or* to authorize the omission of this paradigmatic case, giving an explicit justification (presumably invoking the incomparability argument outlined above)? Neither of these procedures is much in evidence so far. Indeed, one objective of this volume is to prompt rectification of this deficiency.

One thing the two traditions do have in common is their interest in macrohistorical processes of political advance (namely, not just historical change but change in a direction that is somehow normatively approved). In my terminology, they both focus on "democratization" rather than "democracy" (a more static, and potentially essentialized, condition). Scholars in both traditions, therefore, problematize what, from an "immanent" perspective, may seem unproblematic. However venerable, robust, and indeed exceptional U.S. democracy may be, it came from somewhere else and developed and adapted over time. So how did it arise, and what provides both its stability and its forward thrust? Whatever the answers chosen, all surely have implications for political developments outside the United States as well as within.

A possible answer could be that U.S. experience is pristine and thus unrepeatable, so all other democratizing countries have to take a different path (not least, perhaps, because they have an example to follow, whereas the Founders of the United States might have been the first pioneers, or true originators). If true, this could make democracy not only immanent but pristine for the United

States and no more than a secondary copy for any other country. But the claim to pioneer status could only be upheld by means of a comparative analysis, one demonstrating that American slave owners, for example, were more unqualified democrats than, say, the English Levellers or the founders of the Icelandic Commonwealth.

The inner resilience of a collective conviction in the inherent democraticness of U.S. society is likely to be most evident when the people are confronted by starkly contrary evidence—as, for example, in 1861 or 1965. An immanent democracy would be one with great reserves of faith in the national capacity to absorb and overcome such setbacks without abandoning fundamental democratic commitments. By this standard, an American political development analysis could examine such crisis episodes with a view to assessing when and how far the United States qualified, historically, as an immanent democracy, and a comparative evaluation could indicate whether, and when, the United States stood out in this regard among other potential members of the subset.

Other answers invite more obvious comparisons. If other pioneers also have valid claims to originality, then they can be compared with the United States on a "parity of esteem" basis. After all, Canadian democracy is also quite venerable and robust. Some would even regard the commitment to democracy as constitutive of the Maple Leaf national identity, in the same way the immanence claim asserts for the Star-Spangled Banner.

Is the United States Especially Democratic?

The Polity IV dataset, as noted above, assigns Canada a "perfect" democratic score of 10 for every year since 1921. But Canada's collective identity has been forged, to a substantial extent, in contrast to that of the United States—no war of independence and so no sharp break with British political tradition; no civil war; no slavery; no segregation; a different relationship to the Aboriginal population; and, of course, the multicultural issues arising from the inclusion of a large French-speaking Catholic population in Quebec. In contrast to the United Kingdom, Canada adopted federalism in 1867, but in contrast to the United States, "federalism was not an embrace of modernity, but a way of dealing with a pre-modern Quebec" (Gibbins 2002: 136). Not until the repatriation of the Canadian Constitution in 1982 did the country acquire a Charter of Rights and Freedoms, and even then it was rejected by Quebec and posed new problems concerning the place of Aboriginal peoples in the political system. So, although

on some crude, objective criteria Canada might not seem very different from the United States in terms of its commitment to democratic rules of the game, if we include the more subjective and discursive components of the nation's collective identity, we find some deep contrasts. Do these differences make Canada less of an immanent democracy than the United States? It is certainly possible to envisage episodes of cognitive dissonance—episodes in which Canadians would have to confront the discordance between their national democratic convictions and the practical consequences that might follow from, say, a referendum endorsing independence for the province of Quebec or certain rulings on Aboriginal rights. Under such circumstances, the immanence of Canadian democracy could be severely tested (as might also be the case in the United States under certain scenarios of terrorist attack). Of course, it is also possible to envisage similarly severe tests of the subjective convictions of Americans.

My conclusion is that, in its quieter form, the national self-perception as democratic is as deeply implanted in Canada as in the United States. Hence, with the proviso that this classification identifies an underlying tendency, not an absolutely immutable certainty, my conclusion from a comparativist perspective would be that, for all the differences between them, Canada has as good a claim as the United States to be included in the subset of immanent democracies. This is obviously not to claim that there is no difference between the nature of Canadians' self-belief in their society's democratic qualities and that of their neighbors. The "Manifest Destiny" strand in U.S. immanence is clearly lacking in Canada, as is the evangelical tendency in the United States to "export" the virtues of its system to less fortunate nations.[2] Democratic immanence in Canada involves more stress on other features, such as civility and international-mindedness. But it may be no less constitutive of Canadian national identity.

This is not the place to discuss in detail how much further the immanence subset should be extended. Other plausible candidates for inclusion might be Australia, Denmark, Finland, Iceland, New Zealand, Norway, Sweden, Switzerland, and the United Kingdom. Some would add Costa Rica, perhaps Barbados, and conceivably even Botswana, India, or indeed Israel. What matters for the purpose of this chapter is not to debate the precise boundaries of the subset but simply to demonstrate that the United States is not unique in this respect. Its democracy may be the most powerful, the most widely admired, the most durable, the only superpower, and even the most resilient of all those included in the list. But it still merits comparative analysis and is not wholly "incomparable." Once that has been granted, there is scope for further analysis: for investigating the

role of Protestantism, of the English language, and of national protective boundaries, for example, as possible correlates of democratic immanence.

But this is a chapter about the United States, not about comparative democracy, so we should now return to our earlier question: if the United States can now be classified as a paradigmatic exemplar of a subset of democracies that we can label "immanent," how did this come about? Was this quality present from the very beginning of the country's independent existence, or is it something that has developed, or been "socially constructed," over time?

The Origins of U.S. Immanence

A good place to begin this inquiry is with the Philadelphia Convention of 1787 and the Constitution it generated—the foundational document that purportedly defines the "rules of the game" for U.S. politics and government to this day. As Foner (1999: 35) reminds us, "Madison assured delegates to the Virginia ratifying convention that the Constitution offered slavery 'better security than that now exists.' And so it did. For the Constitution prohibited Congress from abolishing the African slave trade for two decades; required states to return to their owners fugitives from bondage; and provided that three-fifths of the slave population be counted in determining each state's representation in the House of Representatives and its electoral votes for president."

Notwithstanding this historical background, Dahl (2002: 122) reports that "in a telephone survey of one thousand adult U.S. citizens in 1997, 71 percent said they strongly agreed with the statement that they were proud of the Constitution; another 20 percent somewhat agreed. In a 1999 survey, 85 percent said they thought the Constitution was a major reason 'Why America has been successful during this past century.' " However, Dahl considers that the framers of the Constitution "fell far short of the requirements that later generations would find necessary and desirable in a democratic republic" (15), and he lists at least seven important shortcomings: slavery, suffrage, election of the president, choosing senators, equal representation in the Senate, judicial power, and congressional power (15–20). He acknowledges that it has proved possible to amend the Constitution subsequently and so, haltingly and belatedly, to "overcome the veto power of long-entrenched minorities" and to eliminate some "of its most flagrantly undemocratic features" (28). But his overall verdict on U.S. democracy at the end of the twentieth century is notably at variance with the

findings of opinion surveys: "compared with other democratic countries our performance appears on balance to be mediocre at best" (118). The Constitution may be only a partial explanation for these deficiencies, but Dahl is (also reasonably) clear that "a constitutional system better designed to achieve such democratic goals as the protection of fundamental rights, fair representation, and greater consensus does not necessarily come at the price of governmental effectiveness, much less the stability of the democratic system itself" (118). Unfortunately, the obstacles to constitutional reform lead him to "measured pessimism" about the prospects for greater democratization of the U.S. Constitution in the future (154).

Despite these findings by Foner and Dahl, the conviction remains deeply embedded among U.S. citizens, as well as most of their leaders, and among many well-informed foreign observers that U.S. democracy is not only the best in the world but also the oldest and purist, thanks to the 1787 Constitution. In the words of Frederick Jackson Turner in 1905, "the problem of the United States is not to create, but to conserve democratic institutions and ideals," which he identified with leaders such as Jackson, Grant, and Lincoln (Turner 1905/1961: 10). It is a remarkable achievement of the U.S. civil religion to have disseminated this conviction so widely in the face of such contrary evidence. From a comparativist perspective, this leads us directly to the final large question outlined above: how was the immanence of U.S. democracy constructed over time, if it was not self-evidently present from the outset? This is a key theme in American political development and obviously cannot be treated in any depth here. However, a small number of pivotal developments can be noted.

Westward expansion in the United States was in many respects a profoundly democratizing experience, opening new opportunities for those wishing to escape the hierarchies of the eastern seaboard. The federal structure, the separation of powers, and the practice of admitting new territories into the Union as equal states greatly enhanced both the reality and the mythology of self-government. The rewriting of key aspects of the Constitution under Reconstruction linked the protection of civil and political rights to the expansion of federal power (a reversal of the state-centered focus of the original Bill of Rights). The rise to world leadership and the national integration generated by victory in two world wars greatly reinforced preexisting beliefs concerning the exceptional political strengths and merits of the United States, and facilitated the incorporation of many millions of immigrants who were bearers of ex-

tremely diverse political traditions. Last, and by no means least, in this brief inventory was the 1965 Civil Rights Act, which belatedly fulfilled the universal suffrage promise inherent in U.S. foundational rhetoric ("no taxation without representation"). Despite these four crucial democratizing processes (and a few more, such as the Nineteenth Amendment and the New Deal), the construction of an immanent democracy in the United States was far from a Whiggish story of necessary and cumulative progression, as the conflicts following Reconstruction and the Civil Rights Act clearly demonstrate. Moreover, even after this long succession of positive developments, there was still room to improve U.S. democracy, as illustrated both by Dahl's (2002) volume and by my study on Puerto Rico in chapter 3 of this volume.

Notwithstanding this imperfect and, to some extent, still incomplete process of democratization, the popular conception within the United States—also widely disseminated in the rest of the world—is that this country has already achieved the highest level of democratic quality ever attained anywhere. The genealogy of U.S. democratic immanence must therefore be traced not just according to the historian's evaluation of American political development but in terms of this contemporary political regime's capacity to project backward in time its legitimizing beliefs and foundational myths. In other words, propagation of the U.S. civil religion requires examination as an object of study in its own right.

No doubt the genealogy of this comfortable patriotic conviction can be traced back to the very earliest days of comparative politics. Consider the following passage, penned by Alexis de Tocqueville in the second half of the 1830s:

> Democratic institutions generally give men a lofty notion of their country and of themselves. An American leaves his country with a heart swollen with pride; on arriving in Europe he at once finds that we are not so engrossed by the United State and the great people who inhabit it as he had supposed, and this begins to annoy him . . . An American is forever talking of the admirable equality that prevails in the United States; aloud he makes it the boast of his country, but in secret he deplores it for himself, and he aspires to show that for his part, he is an exception to the general state of things which he vaunts. (Tocqueville 1945, 1: 183–84).

Commenting on the same period from a present-day perspective, Eric Foner (1999: 63) judges that "by the 1830s, a flourishing democratic system had been consolidated. American democracy was boisterous, highly partisan, and sometimes violent. It engaged the energies of massive numbers of citizens (by the 1840s, voter turnout exceeded 80 percent of those eligible)."

Eisenstadt has attempted to characterize the distinctive features of the collective identity created by the establishment of the United States by highlighting the specific content of what he refers to as the American "civil religion":

> The new collective identity crystallized in the U.S. around a political ideology rooted in a combination of Puritanism (in particular its ideology of the covenant); and the premises (especially legal) of natural law and of common law, the English tradition of the rationalism of the Enlightenment and the radical thought of the Commonwealth. This transformed the above conceptions and premises into components of a new collective identity, a new constitutional order, and ultimately a new "civil religion" . . . within this American creed, the concepts of territory and people-hood were indeed very strong—promulgated in Biblical terms of "Promised Land" and "Chosen People." But unlike in the Jewish tradition and Zionist movement, those terms were couched mostly in religions—ideological and not in primordial terms. The new land was not the land of the fathers to which one returned. The settlers conceived the very constitution of this new political order as an act of great innovation and universal significance—not a continuation of the former history of their countries of origin. (Eisenstadt 2002: 35–36)

> The construction of this identity entailed the delineation of very sharp and rather exclusivist boundaries of the collective, structured according to the basic premises of American civil religion. Here primordial orientations or hierarchical principles could be permitted in secondary informal locations, but not as components of the central premises and symbols of society. Thus, the U.S. civil religion could not easily accommodate native Americans, whose overwhelming primordial identity was completely unrelated to the new ideological framework and claimed a totality of its own. (Eisenstadt 2002: 17–18)

Finally, here is one further and much debated interpretation of the genealogy of the distinctive sense of national identity of the United States, as seen from the white Anglo-Saxon Protestant perspective. According to Samuel P. Huntington:

> America is a founded society created by seventeenth- and eighteenth-century settlers almost all of whom came from the British Isles . . . They initially defined America in terms of race, ethnicity, culture, and most important religion. Then in the eighteenth century they also had to define America ideologically to justify their independence from their home-countrymen . . . By World War II . . . ethnicity virtually disappeared as a defining component of national identity. Following the achievements of the civil rights movement and the immigration act of 1965, so did

> race. As a result, by the 1970s American identity was defined in terms of culture and Creed. At this point, the core Anglo-Protestant culture that had existed for three centuries came under attack, raising the prospect that American identity might come to be equated solely with ideological commitment to the Creed . . . The central elements of that culture . . . include the Christian religion, Protestant values and moralism, a work ethic, the English language, British traditions of law, justice and the limits of government power . . . Out of this culture the settlers developed in the eighteenth and nineteenth centuries the American Creed with its principles of liberty, equality, individualism, representative government, and private property . . . "We hold these truths to be self-evident" says the Declaration. Who holds these truths? Americans hold these truths. Who are Americans? People who adhere to these truths. National identity and political principle are inseparable. (Huntington 2004b: 38, 40–41, 46)

Huntington then adds that "identifying America with the ideology of the Creed enables Americans to claim that they have a 'civic' national identity as contrasted with the ethnic and ethno-cultural identities of other countries. America is said to be more liberal, more principled, more civilized than those tribally defined societies. The creedal definition allows Americans to hold that theirs is an 'exceptional' country because unlike other nations its identity is defined by principle rather than ascription and, at the same time, to claim that America is a 'universal' nation because its principles are applicable to all human societies" (47–48). But at the end of his analysis, Huntington concludes:

> a creed alone does not a nation make. The principles of the Creed—liberty, equality, democracy, civil rights, non-discrimination, rule of law—are markers of how to organize a society. They do not define the extent, boundaries, or composition of that society . . . People are not likely to find in political principles the deep emotional content and meaning provided by kith and kin, blood and belonging, culture and nationality . . . The Creed is unlikely to retain its salience if Americans abandon the Anglo-Protestant culture in which it has been rooted. A multicultural America, will, in time, become a multi-creedal America, with groups with different cultures espousing distinctive political values and principles noted in their particular cultures. (337–40)

This Anglo-Protestant construction of U.S. national identity certainly has a venerable genealogy, although its relationship to the political ideology of (among other things) equality, democracy, and nondiscrimination is far from self-evident.

As Foner (1999: 7) notes about the 1840s, "the idea that American freedom was linked to the innate liberty-loving qualities of Anglo-Saxon Protestants was widely popularized in the press and popular magazines, political treatises, and the writings of the era's philosophers and historians. There had always been a small Catholic population in the colonies and growing republic, but only in the 1840s with the Irish Potato Famine and the Mexican War did large numbers of Catholics suddenly become part of the population. The result was to reinvigorate long-standing Protestant hostility to 'Popery' and to further reinforce the identification of liberty with the nation's putative Anglo-Saxon heritage." This example suggests that one powerful component of the construction of a generalized U.S. self-belief in the country's exceptional democratic virtue was the interest of a dominant group in disguising the nature of its privileges both from itself and from those it dominated.

From a comparative perspective, the question to consider is whether this distorting evangelism is specific to the United States or whether other immanent democracies have also constructed a collective self-understanding that disguises the underlying relationship of domination between groups. In Canada, the equivalent would be a possible mismatch between a Canadian national myth of tolerance and inclusiveness and the treatment of French Canadians, Aboriginal peoples, and immigrants. In Australia, it would presumably be the discriminatory effects of the "White Australia" immigration policy that persisted until the 1960s. In New Zealand, it would be relations with the Maoris. In the United Kingdom, the obvious test of English nationalist celebrations of the Anglo-Scottish parliamentary monarchy concerns the clash with Irish Catholic nationalism. In France, the Parisian elite has traditionally exercised centralized control over "le desert français." And in Israel, the constructed image of a Zionist democracy apparently disguises the second-class political status of the Israeli Arabs. These are all topics for comparative investigation, not settled conclusions. But they probably suffice to demonstrate that the United States is not unique among immanent democracies in propagating an image of democratic inclusiveness that glosses over some awkward historical realities and idealizes a collective identity that serves to flatter a core constituency while imposing burdensome demands on "others." This is intended as an analytical observation, rather than a criticism. From a comparative perspective, any stable regime—including any democratic regime—is a system of domination in the sense that it structures opportunities and precludes alternatives. A stable democratic regime also requires legitimation in the sense that it wins the allegiance of its citizens.

Moreover, a case can be made that such democratic mythology constrains the majority and offers avenues of access to otherwise excluded groups. The point at issue here, for students of comparative politics, is simply that the construction of such beliefs needs to be understood as an integral component of democratization and needs to be investigated genealogically, rather than just taken at face value. The construction of Americans' self-belief in the United States' exceptional democratic quality provides a paradigmatic example of this.

Conclusion

This chapter has presented two distinct strands of analysis, both drawn from the comparative politics literature that has theorized about democratization outside the United States over the past thirty years.

The "brown areas" argument directs attention to the uneven quality of "really existing" democratic practices at the local and provincial levels, and makes the point that a fully democratic national political system may in practice be swayed, or even perverted, by the interaction with deeply entrenched undemocratic structures lower down. Although this argument is developed here with reference to the very different constitutional and socio-structural realities of Latin America, it finds an evident counterpart in the history of American political development, as exemplified by the Jim Crow laws disenfranchising black voters in the South, not to mention various other less familiar manifestations of local-level power abuse in parts of the U.S. hinterland.

The "immanent" democracies argument is also derived from a comparative democratization frame of thought. It aims to incorporate the United States (and other long-standing democracies of the same type) into the universe of national processes subject to classification. It addresses the traditional assumption that the U.S. case is so exceptional that it must be set aside for separate assessment, by proposing a subcategory within the field. The argument aims to overcome the distortion in the comparative democratization literature that arises from disregarding a leading set of cases, while at the same time acknowledging the distinctive properties that have hitherto made it difficult to situate American political development comparatively.

Our joint hope is that this preliminary discussion will open new avenues of research and conceptual development that may enrich both comparative democratization and American political development studies. There is both an analytical and a normative pay-off here. Analytically, an artificial distinction can be

dismantled to permit exploration of neglected common themes, in particular at the level of long-run and holistic historical processes (comparisons between disaggregated fragments of democratic practice in the United States and elsewhere are already available, but without sufficient comparative historical analysis or contextual framing). Normatively, our understanding of the rich and conflictual possibilities of democracy as a model of government, and of democratization as a process of popular enfranchisement and empowerment, will be enhanced by a more inclusionary and reflective examination of this unusual but paradigmatic case. Democracy as a universal value requires a detached assessment of what has been achieved and what remains undone in all really existing cases. The experience of democracy in the United States is too important to be compartmentalized and only celebrated as a unique national achievement. If it is to be improved upon, and if its lessons are to be generalized, it needs to be situated more firmly within the universe of parallel experiments in progress elsewhere.

These are not the only strands of analysis that could be transferred from the comparative democratization perspective to the study of the U.S. case. The international dynamics of democratization would also be worthy of exploration, as would the selective politics of democratic memory and a variety of other themes that are receiving sustaining attention outside the United States. In preparing this chapter, we decided to limit ourselves to just two of this large array of possible external perspectives on American political development. It seemed better to concentrate on two that might demonstrate the value of this innovation, rather than to survey a whole range of possibilities, giving insufficient depth to any one. Even the two topics we have selected for consideration merit much fuller examination, and there is huge potential for others to pursue the additional themes we omitted. Our hope is that this opening shot will serve to bring in more firepower.

CHAPTER THREE

Two-Tier Citizenship

The Unresolved Challenge of Puerto Rico's Electoral Exclusion

Laurence Whitehead

This chapter is eclectic in approach. It draws on a range of models and perspectives on comparative democratization selected for their potential relevance to the U.S. experience. What emerges is a series of suggestive analogies and challenging contrasts, rather than a tightly causal model of democratization by which U.S. experience can be assessed. The object of the exercise is to use theoretical and comparative reflection to highlight aspects of U.S. democratization that merit closer inspection. Rather than attempting to reduce U.S. experience to a standard template, it aims to open up analysis of the U.S. case to the new lines of inquiry that can develop from an "outside look" at a subject normally examined in a self-referential manner. For this purpose, democratization should be understood as a complex, long-term, dynamic, and at least partially open-ended process, rather than as an abrupt shift from one state of equilibrium to the next.

Within this broad comparative framework, I deal with only a limited number of topics. The chapter focuses on territoriality, rights, and national identity. Under each heading it considers, first, how these elements fit within a comparative democratization perspective; second, how far the particularities of the U.S. case resemble or contrast with that perspective; and third (to bring some more specific evidence to bear), what the "Commonwealth" of Puerto Rico indicates about the scope and limitations of these nationally distinctive particularities and

about the extent (and unevenness) of democratization within the jurisdiction of the U.S. Constitution.

Territoriality, Democratization, the Fifty States, and Puerto Rico

A common starting point in much work on democratization is the prior assumption of the existence of a national state with a precisely delineated territory and population. After all, it is not possible to convene a democratic election in the absence of prior agreement about the boundaries within which it will be held and about the communities entitled to electoral registration. Were either of these uncertain or subject to change during the contest, the outcome would become indeterminate. A majority can emerge only on the basis of a common denominator. But of course, the initial boundaries of the United States were not so clearly delineated (not, at least, to the west), and the territory of the fifty states is many times larger than when the Founders met in Philadelphia. The demography of citizenship has been transformed even more drastically. So how does the comparative democratization literature deal with territorial expansion and the incorporation of new citizens? And how far does the U.S. experience correspond with, or deviate from, these generalizations?

This chapter considers these issues in general, but also through the prism of the specific experience of Puerto Rico. Puerto Rican politics tends to be treated as a marginal curiosity rather than an integral component of the U.S. political system. But insights from the periphery can transform our perception of what exists on center stage. Puerto Rico exemplifies this general point well, as its inhabitants have U.S. citizenship but lack statehood. After all, if Puerto Rico had achieved statehood by 2000, its possible preference for Al Gore would have been sufficient to change the outcome of that year's close-fought presidential contest. How anomalous, in comparative terms, is the status of Puerto Rico, and what does this indicate about democratization in general and the U.S. variant in particular? This section addresses these issues in three parts. First, it makes a case for relaxing the standard assumption of "completed stateness" in order to examine and compare democratizations as long-term historical processes. Second, it surveys the history of U.S. federal expansion from this broadened comparative perspective. Third, it draws attention to the most striking example of continued "incompleteness" in this process—the still unresolved "status" of Puerto Rico—

and considers its implications for an analysis of the U.S. variant of democratization. After I have laid out the comparative and historical framework, contemporary Puerto Rico will receive special attention.

Democratization and State-Building

First, we need a comparative perspective. When we view democratization as a long-term, dynamic, and partially open-ended process with a very large and diverse range of exemplars, it becomes unrealistic to postulate "complete stateness" as a prerequisite. There may be a few instances where the separation between democratization and state-building is clear cut (in Portugal or Sweden, perhaps), but for the most part, currently existing democracies were still undergoing processes of state formation and territorial integration at the time when long-run democratization began. If there is any significant overlap between these two processes, this is sure to affect the dynamics of democratization, for the reason given above. We can expect four broad types of issue to arise from any such overlap: problems of balanced internal representation, issues of regional disloyalty, questions of national integrity, and issues of harmonious coexistence with immediate neighbors. Comparative experience indicates that much of importance may be lost if democratization is conceptualized in a way that screens out consideration of these four possibilities. Let us consider each briefly.

State Formation and Internal Balance

In the United Kingdom, state formation involved penal laws against Catholicism, the "highland clearance" of crofters in Scotland, and the imposition of the "King's English" as the national language. Similar long-term processes of homogenization can be observed in other European democracies ("peasants into Frenchmen" and *laïcité*, for instance). Such processes are not always complete by the time democratization begins. For example, Aboriginal populations in Australia, Brazil, or Canada were still substantially "unassimilated" at the point when these nations established democratic constitutions with supposedly universal citizenship rights. Other possible exclusions can include ethnic, religious, and linguistic minorities. The expectations, capabilities, loyalties, and social entitlements of such marginalized population groups can be radically out of line with standard assumptions about universal citizenship and the evenness of distribution of political dispositions across the electorate. Where substantial communities are marginalized, this may destabilize the internal balance of forces presumed by democracy to be "the only game in town."

Potentially Disloyal Regions

Sometimes, relatively "unassimilated" populations constitute electoral majorities in certain regions within the territory, and it is not uncommon to doubt their commitment to national unity. Basques, Catalans, Corsicans, Quebecois, and Ulster Catholics, for example, illustrate the frequency of this pattern, even in well-established democracies. These populations may use the opportunities provided by a democratic constitution to mobilize for secession, or even annexation by a neighboring state. Depending on specific histories of state formation, and specific provisions within the democratic constitutional framework of each country, the renegotiation of national boundaries may be permitted, prohibited, tolerated, or repressed. From a democratic perspective, there is always a problem associated with defining the relevant decision-making unit. If Quebec votes for independence, for example, does the last word rest with that province alone or with the Canadian federation (which would be partitioned into two), or must the preferences of local majorities *within* Quebec also be taken into account? Similar issues arise with Scottish nationalism in the United Kingdom (the voters in the Orkneys may not wish to be governed from Edinburgh), and so forth.

National Integrity

In the United States, the Civil War produced a particularly emphatic resolution of doubts about the indivisibility of the nation. But there are several possible relations between the achievement of national unity and the development of democracy. In Germany and Italy, constitutionalism (containing democratizing potential) offered a peaceful route to national reunification on terms that were relatively acceptable to late-arriving regions. Arguably, in the long run, the only way to hold together such potentially fissiparous nation-states as Canada, India, South Africa, or Spain is through an inclusive democratic constitutionalism, and federalism. But comparative experience also suggests some major counterexamples. French efforts to complete national integration and stabilize democratic republicanism have generated a succession of constitutional settlements, each of which foundered at least in part because of disagreement over the boundaries of the Paris-ruled polity (most recently, the Fourth Republic failed because of Algeria). If the Tiananmen Square democrats had somehow prevailed, what would have happened in Tibet when free elections were held there? And if Tibet could secede (regain its independence), could democratic China have reintegrated Hong Kong, controlled Sinkiang, and coped with all the consequential regional

pressures? The fate of the USSR and Yugoslavia provides the most cautionary of warnings. Indonesia and Nigeria (not to mention Afghanistan and Iraq) reinforce the point that democratization may not guarantee national integrity, at least not under conditions of severely contested state formation. All these comparative experiences are worth drawing on when scholars of American political development consider how the Civil War contributed to (or detracted from) U.S. democratization—and also whether a less unitary United States would have turned out to be less democratic.

Peaceful Coexistence with Neighboring States

One of the most oversold of doctrines in the comparative democratization literature is the assertion that democracies do not fight each other. It may be true of democracies that have overcome all their major problems of state formation; it may hold for the United Kingdom and Ireland, or the United States and Canada, or France and Switzerland, notwithstanding any still-pending conflicts between them. But it is highly questionable as a universal law. Bolivia and Chile, Peru and Ecuador, El Salvador and Honduras, pre-Musharraf Pakistan and India, Palestine and Israel—this list of potential conflicts between at least minimally democratizing regimes and their neighbors could easily be extended. In nearly all such cases, we can broadly describe legacies of contested or failed state formation at their borders as a major source of instability.

U.S. Federal Expansion: A Comparative Perspective

Now, let us briefly survey the history of U.S. federal expansion against the backdrop of these observations derived from the comparative democratization literature. We must start with the Continental Congress and the Articles of Confederation linking the thirteen original rebel colonies on the eastern seaboard. Until 1784, it was extremely difficult to unify (let alone expand) what was to become the United States of America, because the preexisting colonies and emerging "states" were focused on preserving their inherited local structures, boundaries, and internal equilibriums. A breakthrough came when Jefferson penned the ordinance of 1784, establishing the principles that would govern the admittance of all new states to the Union on an equal basis with existing states. The impetus for this bold new experiment in institutional design was more economic than political. The only way the new Confederation could escape from its initial condition of fiscal paralysis was through the sale of public land. On March 1, 1784, Jefferson led the Virginia delegation to formally hand over his state's

claims to the immense region to the west of the Ohio River. Congress voted to accept his offer, and in return:

> a committee chaired by Jefferson produced a report on how this Western Territory was to be governed. It covered each stage of the process, starting with the land's acquisition from the Indians by the U.S. government, through its division into different territories, the choice of territorial government, and their eventual admission as states to the United States. Once the land had been acquired and surveyed, settlement could take place, and when the population of a territory reached 20,000, it could begin the process of becoming one of the states of the union on a level of equality with the original thirteen founders. There would be "no slaves and no hereditary titles" in Jefferson's vision of the expanding republic (in practice, however, the no slave provision was lost by one vote). Even the names of the proposed states were specified, among them Michigania and Illinoia, which more or less survived, and Assenisipia and Polypotamia, which did not. What was striking was their shape. Except for river and lake boundaries, all were defined by parallels of latitude running east-west—most were to be two degrees deep—and by meridians of longitude running north-south. (Linklater 2003: 70)[1]

The assumption behind this ordinance was that the emerging United States had room to expand into what was imagined as an "empty space" to the west of the Appalachians. Thus, democracy could be reproduced in these new territories without worrying about the impact of this expansion on adjoining states. National integration could be inherently expansionist while conformed by an internal logic of democratic development. The expansion would be both politically legitimate and economically self-financing, if it was based on the purchase and settlement of supposedly unoccupied land. The opening of the West could also help to democratize the eastern seaboard by undermining colonial-type stratification and by freeing productive families from the constraints of land scarcity. No doubt, in due course, this would eventually reach an outer limit, as the westward march of the U.S. state bumped up against the existence of neighboring claimants who could not be bought out (this turned out to be Mexico, truncated at the Rio Grande), but in the 1780s that was a distant prospect.

From a comparative institutional design perspective, we can single out several features of the 1784 ordinance as exceptional. First, this seems to have been a genuinely new invention. It is hard to find earlier models or precedents that seriously foreshadow this innovation. Second, the institutional framework thus created cannot be envisioned as a static equilibrium. What the ordinance at-

tempts to foresee and constrain is a rapidly transformed political community, one expected to grow and rebalance for many generations to come. In this sense, it presents an unusually vivid instance of the idea of democratization as a long-term, dynamic, and open-ended process. Third, this proposal cannot be assessed adequately in exclusively political terms. It is an integral part of a broader package of measures—economic and social as much as narrowly political in focus—intended to remove all legal and political barriers to individual initiative and thereby create what Jefferson called "an opening for the aristocracy of virtue and talent" (Ellis 1998: 79, 81).

Fourth, whatever the intentions or expectations of those who engage in institutional design, if the rules they write prove durable, and if democratization is a long-term, open-ended process, many of the eventual consequences will prove unintended, unforeseen, and perhaps even unwelcome. Durable rules last and bite only when future generations of power-holders are able to appropriate or adjust them in accordance with their emerging purposes. Thus, whatever Jefferson had hoped for in 1784, forty years later he bleakly acknowledged that slavery had flourished as an integral component of the westward land settlement he had set in motion. (A subsequent 1787 ordinance forbade slavery north of 36° 60′ but allowed it south of that line.) Even in the North, what the original ordinance promoted was the spread of land speculation, as much as of a democratic yeomanry.

Fifth, whatever the original rationale for such national rules might prescribe, implementation takes place more locally, so principles of institutional design may work differently in different regions. In this case, Georgia differed from Virginia, with profound consequences for the future national integration of the United States: "The Appalachian range that separated other states from their western territory only skirted the North-West corner of Georgia, and there was no physical barrier to prevent settlers moving west until they reached the Mississippi. Consequently the state, the youngest and poorest of the thirteen, was eager to sell the land before it was taken up by squatters" (Linklater 2003: 153). Unlike the others, Georgia had refused to cede to the Union its charter claims to the west (including much of present-day Alabama and Mississippi), and in 1795 the land rush really gathered momentum when Spain relinquished its claims to Georgia's western territory. Not until 1802, after Jefferson became president, was Georgia prevailed upon to cede its western claims to the federal government. By that time, vast fraudulent property transactions had been legitimized, and the political conditions for an eventual civil war were set in place.

Even so, as a sixth feature, we can see with hindsight that 220 years later (un-

like the attempts of most new democracies to draft permanent "rules of the political game"), the territorial principles germinated by the ordinance of 1784 remain beyond question. These state boundaries have become quasi-natural, and have proved capable of providing a physical framework for political representation sufficiently durable and flexible to accommodate the vast and unforeseeable demographic and societal transformations that have subsequently swept across the North American land mass.

Despite this package of six distinctive features, the appearance of exceptionalism can easily be overstated. In fact, from the very outset, the Founders of the United States had to contend with the same four questions outlined above—of internal balance, the potential existence of "disloyal" regions, problems of national integration, and how to maintain peaceful coexistence both with adjoining jurisdictions governed from Europe (Canada, Florida, and Louisiana) and those spaces already required by Native American peoples. (Indeed, looking behind the separate national histories, it would be possible to construct a robust framework for analyzing the history of federalism in Australia, Brazil, Canada, Mexico, and India, for example, which would include the rules for creating or incorporating new provinces or "states" and would invite comparison with this U.S. experience.)

The early history of Vermont, the fourteenth state, provides an early demonstration of these four recurrent issues. In 1777, Vermont declared itself independent not only of old England, but also of New Hampshire and New York. Independent Vermont repeatedly legislated to extend its territory, both to the east and to the west. The Continental Congress could not admit Vermont as long as the State of New York continued to claim the whole territory as its own. After 1789, Article IV, Section 3, of the U.S. Constitution provided that no new state can be created out of an existing state without the consent of *both* the U.S. Congress *and* the legislature of the existing state. But this clashed with another ambition of the Vermonters: to expand westward and eventually spawn a new state in what is now upper New York State. These disagreements over the territorial limits and institutional constraints structuring the U.S. federal system can be viewed, in comparative terms, as critical components of "contested stateness" that originated under the Confederacy and persisted even after ratification of the U.S. Constitution. For fourteen years, between 1777 and 1791, the republic of Vermont existed as a separate polity. It was the first state to institute universal male suffrage, and the first to outlaw slavery. Its 1786 constitution even put community interest ahead of individual interest (declaring "that private

property ought to be subservient to public uses"). In the words of one local historian, "Vermont was the only true American republic for it alone had truly created itself" (Peter Onuf, quoted in Klyza and Trombulak 1999: 57). Not until 1791 did Vermont join the Union. That marriage settlement involved a $30,000 payment by Vermont to New York (which obliged the fourteenth state to create a property tax) and an amendment to the state constitution repealing an article that had granted the right of Vermonters to "form a new state in vacant countries, or in such countries as they can purchase, whenever they think that thereby they can promote their own happiness." The inclusion of Vermont altered the internal political balance of the United States, as can be seen in the close-fought presidential election of 1796. Tennessee was the first territory to be made a state (1796).

If fourteen years elapsed before Vermont could join the emerging United States, and eight years before annexation of an independent Texas as a state of the Union, as the republic grew,[2] the interval between first petition by a territory and subsequent admission to the United States became progressively longer. Montana, for example, was recognized by Congress as a separate territory (broken away from Idaho) in 1864, but did not achieve statehood until 1889. The process was delayed at least in part because of partisan fears that the new state might tip the balance in close-fought federal elections (Toole 1959: 118, referring to the 1884 election). Sixty-four years elapsed before Arizona and New Mexico became states (jointly in 1912); Alaska waited 92 years (1959); and Oklahoma took 104 years (1907). During these long interludes, it was the federal Congress that dictated territorial policy.

By the twentieth century, the process of territorial expansion and national integration was nearing completion and slowing down, but the framework created in 1784 was still capable of further extension. In the case of the fiftieth state, Hawaii, more than half a century elapsed between the first petition for statehood from the legislative assembly (1903) and the final plebiscite and proclamation of statehood (1959). Again, the 1960 presidential election was a close-fought contest in which Democratic-inclined Hawaii might have tilted the balance (for this reason, perhaps, Republican-inclined Alaska also secured statehood in 1959) (Kuykendall and Grove Day 1976, chap. 26). Hawaii was the first extra-continental state in the United States, the first to have a long prior history of independent government, and perhaps the most striking instance of the incorporation of a substantial population group with a separate culture and ethnic traditions. If Hawaii meets the requirements for statehood, the question natu-

rally arises whether the same is not true of Puerto Rico. But if Puerto Rico is also considered eligible, then it is not yet possible to regard U.S. state formation as a finally completed process.

Puerto Rico

Puerto Rico became a U.S. territory as a result of the war of 1898. But according to a 1901 ruling by the U.S. Supreme Court, this was not the same kind of territorial status accorded to lands previously purchased or seized from France or Mexico. The Court ruling classified the island as "appurtenant [to]—but not part—of" the United States. "With the decisions in the Insular Cases . . . Congress's territorial authority was no longer to be just temporary. New territories might never become states if Congress did not want them to be" (B. Sparrow 2006: 6). Since then, Puerto Rico has belonged to, but not been fully integrated with, the United States. Like Guam and the U.S. Virgin Islands, Puerto Rico is an "unincorporated territory" of the United States. Under the 1917 Jones Act, President Woodrow Wilson and the Democrats granted U.S. citizenship to the inhabitants of the island—also, and at the same time, subjecting them to the military draft. The Bureau of Insular Affairs in the U.S. War Department exercised overall control from Washington, with the island's governor, attorney general, and supreme court appointed by the president. But there was also an elected bicameral legislature to which cabinet ministers were at least partially accountable. Then, under the New Deal, responsibility for island affairs was transferred from the War Department to the Department of the Interior, and in 1936, universal suffrage was established. Between 1936 and 1945, Congress considered (and rejected) three successive bills that proposed granting the island its independence. Eventually, in the aftermath of World War II, it did authorize the direct election of the governor (first election in 1948), and in 1952 a new Puerto Rican constitution came into force, the document that governs insular political affairs to this day.

This constitution established what is known in English as the "Commonwealth" of Puerto Rico, or in Spanish (borrowing from the Irish Free State), an Estado Libre Asociado. The process of institutional design in this case involved an intricate sequence of adjustments, part insular and part continental. There was a constitutional convention and a referendum, but these were followed by modifications to secure assent from the ultimate locus of authority, the U.S. Congress. The essential idea was that the island would be granted full internal autonomy, while remaining under U.S. sovereignty. Defense, foreign affairs,

and also many matters that are domestic were reserved for decision by Washington, but the locally elected governor and legislature also acquired substantial powers, with roughly the same control over internal affairs as that in the fifty states, regulated by an insular supreme court. In this way, the United States sought to demonstrate that it was not an imperial power (thereby differentiating itself from its European allies, which were required to decolonize under the terms of the Atlantic Charter and the U.N. Charter), while at the same time not embracing statehood as the only eventual alternative to independence (at a time when Hawaii was being prepared for statehood). "Commonwealth" status was defended as an attractive halfway house that need not preclude either of these irrevocable alternatives. Since 1952 there has never been more than a limited minority of islanders willing to vote for full independence, nor has there yet been a majority vote for statehood (the statehood option received 39% of preferences in 1967; in 1991, 1993, and 1998, the electorate remained divided and indecisive in three nonbinding votes).

There is still no consensus on the island about the status question, and therefore any attempt to characterize the democratic quality of the "Commonwealth" formula can be relied upon to generate controversy. From a comparative perspective, it is easy to understand why critics assert that only two options meet the standard requirements of full political democracy. If the majority opted for independence as a sovereign democratic republic, then Puerto Rico could be compared on an equal footing with its many counterparts. But only a limited minority of the electorate has ever been willing to take this risk, and it seems unlikely that this choice will be freely undertaken in the foreseeable future. An equally valid democratic outcome would be for the island to gain admittance to the Union as a fifty-first state. Although there has never yet been a referendum majority in favor of this option, it does have strong and probably rising support on the island and might obtain a majority in due course. In that event, the U.S. Congress has expressed a willingness to consider an application (although many observers anticipate delay and *arrières pensées* in Washington). Meanwhile, defenders of the post-1952 status quo assert that it is an equally legitimate democratic option, still enjoying the majority support of the island's electorate, and that enhancements are possible where needed. Two key issues largely determine the stance of the two sides in this debate, at least insofar as it concerns the quality of Puerto Rican democracy. First, critics regard the 1952 settlement as an instance of colonial rule, on the grounds that the U.S. Congress made the decisions and retained the last word. Defenders of the status quo argue that the

islanders took control of their political destiny at that point. Second, but closely related to the first point, critics say the 1952 status is a temporary halfway house, whereas defenders deny its impermanence, adding that island-led reforms can perfect it.

Viewed comparatively, Puerto Rico's path to democratization is anomalous and hard to classify. The "Commonwealth" formula has proved compatible with high standards of democratic performance on most relevant dimensions. With reason, Freedom House has long rated the island "free," scoring 1 on political rights and 2 on civil rights. In the context of its time, the 1952 constitution was a considerable improvement on the island's previous political status, and it did stabilize a high level of democratic openness and contestation, certainly when compared with most other islands in the Caribbean. However, the islanders are also U.S. citizens, but plainly possess fewer political rights then their counterparts in the fifty states. They are subject to various serious forms of external tutelage (both legislative and judicial) on which they have weak voice and no vote. They can be committed to wars without their democratic consent. There were always serious limitations to the Commonwealth solution. Over the ensuing half-century they have become more anomalous, as better democratic institutions spread throughout the western hemisphere and as Washington took an ever higher-profile position in promoting democratic practices in other parts of the world. Moreover, the economic and social benefits that, to some extent, compensated the islanders for their partial surrender of political rights have been progressively eroded through the repeal of the island's tax exceptions and Washington's extension of free trade agreements to other countries. Even if 1952 is accepted as a democratic advance for the time, it may now be seen as partial and overtaken by events in the rest of the world.

So, for more than half a century, the U.S. citizens who are resident in Puerto Rico have exercised an anomalous, and indeed "second-class," variant of political citizenship. They may be required to fight for their country (sixty-five died in the first four-and-a-half years of the U.S. occupation of Iraq, which overrepresents their sacrifice by a factor of five when compared with U.S. citizens who have a national vote), but they cannot elect its president,[3] and they have no vote (although they do have a voice) in the only legislature that can decide on peace or war. They can vote in U.S. presidential primaries, which are held on the island, but cannot then choose between the rival candidates that emerge from the party selection process. There are other legal anomalies as well (Puerto Ricans are not liable for federal income tax, for example), but since our focus is

on democratization, the tangled issue of electoral procedures provides the best focus of attention.

Every four years, the island holds an electoral contest that is hard fought, with a high turnout (usually much higher than in the United States itself), and can be regarded as exemplary by Latin American or Caribbean standards. However, this exercise in civic responsibility receives almost no attention outside the island because it takes place on the same day as the U.S. federal elections, and yet has no bearing on their outcome. In the election of November 2000, for example, if Puerto Rico had been entitled to participate in the U.S. contest it would have been allocated eight votes in the Electoral College (more votes than twenty-three of the fifty participating states). Given that the governorship election produced a swing to the "left," it is plausible to speculate that these eight votes would have been sufficient to carry Al Gore to the presidency, notwithstanding the "hanging chads" of Dade County, Florida. But this can only be speculation, because the week before the U.S. vote, the Puerto Rican supreme court voted by 5 to 2 to block the outgoing governor's decision to hold a "shadow" presidential election. The island's supreme court (mostly composed of appointees favorable to the status quo) justified its decision on the grounds that such an exercise would be a waste of public money and an act of propaganda designed to favor the pro-statehood side.[4] The background to this court case was a lawsuit filed by residents of Aguadilla (in northwest Puerto Rico) claiming that they were being unlawfully denied the right, as U.S. citizens, to elect their president. This claim was initially upheld by U.S. District Judge Jaime Pieras, who in a thirty-three-page opinion ruled in August 2000 that this citizens' right outweighed the power of Congress over an unincorporated territory. The U.S. Justice Department appealed against the judge's ruling, arguing that it is states, not individuals, who elect the president. It cited a 1994 ruling that Puerto Rico could only participate in a presidential election if it *either* achieved statehood *or* secured an equivalent of the Twenty-Third Amendment to the Constitution. In November 2000, the First Circuit Court of Appeal upheld the Justice Department's interpretation, thus triggering the divided vote by the Puerto Rican supreme court.

The 2004 island election was also hotly disputed, and finally resolved through the federal courts, rather than by purely electoral means. The closeness of the outcome, combined with the entanglement of partisan ambition with the polarizing issues arising from the unresolved question of Puerto Rican status, served to so embitter the island's politics that 2005 became a year marked by institutional paralysis. The Popular Democratic Party (Partido Democrático Pop-

ular, PPD) governor was besieged by a New Progressive Party (Partido Nuevo Progresista, PNP) legislative majority, and the powerful senate became embroiled in a three-way struggle for power, arising from the efforts of the narrowly defeated gubernatorial candidate to turn the tables on the governor by capturing the presidency of the upper house. This is not the place to enter into too many details of that highly polemical struggle for power, except to note that the problem of sovereignty continues to destabilize and embitter the political process in Puerto Rico.

As these intricate legal and political maneuvers indicate, the question of Puerto Rico's territorial status and its incomplete integration into the United States of America remains an unresolved and contested matter more than fifty years after the Commonwealth constitution came into force. In fact, over a century has elapsed since the island became a U.S. territory, and yet these officially American citizens still do not know whether (let alone when) they will be offered full political rights under the U.S. Constitution. I have already noted the steadily lengthening interval between admission to the Union as a territory and as a state. In Puerto Rico's case, this interregnum has turned into an indefinite limbo. In October 2003, President George W. Bush decided to revive an interagency committee to define status options for Puerto Rico. At the end of 2005, this committee produced a report that re-ignited controversy over the status issue, by presenting the ultimate choice as between full statehood or full independence. Defenders of the existing "Commonwealth" system (including the besieged governor) took great offense at what they perceived as disrespect for the only realistic prospect of self-government. Their argument was that existing arrangements could be improved rather than scrapped, and that the postulated statehood option was in reality a mirage, given that it would require the U.S. Congress to make an improbable decision. (Congress, as noted earlier, is ostensibly willing to consider admitting the first Spanish-speaking territory into the Union, but only if there is a strong expression of desire for that outcome from the islanders, something that the PPD and the pro-independence party are jointly strong enough to prevent.) In 2007, the Insular Sub-Committee of the House National Resources Committee (the Washington congressional authority with direct responsibility for the island) received two rival legislative drafts. These were the Puerto Rican Democracy Act, promoted by the pro-statehood side and calling for a two-step referendum by the end of 2009; and the Puerto Rican Self-Determination Act, which would allow the islanders to elect a constituent assembly. Early progress in either of these directions seems unlikely, but

it is important to note the continuing eccentricity of the island's electoral politics in 2008, when Clinton beat Obama in the Democratic primary and the statehooders ousted the Commonwealthers in circumstances that embroiled the federal courts and may spill over into the U.S. Congress. (See Lowenthal, Piccone, and Whitehead 2009 for recent discussion.)

The conclusion would seem to be that even after more than two centuries of expansion and consolidation, U.S. "stateness" is still under construction, and the way the status of the next prospective member of the Union is handled may have significant implications for the United States' internal political balance, as well as for its outer territorial extension.

Puerto Rican citizens of the United States, as noted above, can vote in party primaries, even though they cannot elect the president. Normally this is tokenism (the open Democratic primary in 2008 was scheduled as the very last contest, after all fifty states had chosen their delegates). But it is not impossible for the casting vote of the islanders to determine the identity of the presidential contenders, which Puerto Ricans cannot then choose between. In this context, it seems worth revisiting the four general issues outlined at the outset, as they relate to the Puerto Rican example. As state formation proceeds, the incorporation of additional territories and communities may, as just demonstrated, affect the internal *political balance* of the original polity and also incorporate *potentially disloyal regions.* This second concern arises in the Puerto Rican case because of the islanders' continuing commitment to the Spanish language and the Catholic religion, and perhaps also because of the continuing presence of an independence movement that, although incapable of winning a political majority, nevertheless retains a degree of popular sympathy and cultural legitimacy. After ninety years of U.S. citizenship (including military service, freedom to live and work within the United States, and adherence to such symbols of national allegiance as the dollar and the Supreme Court), it might seem outrageous to question the loyalty of these islanders. But the fact remains that, on both sides of the relationship, significant ambivalence and unease continue. Until the status issue is finally resolved one way or the other, Puerto Rican residents will remain less fully assimilated into the U.S. political system than is any other large, geographically concentrated group of citizens.

This leads to minor, but nevertheless symbolically significant, tensions over issues of *national integrity.* The U.S. Navy recently withdrew from Vieques, which has been used as a gunnery range for sixty years, and this source of friction may soon subside. But for historical reasons, the island has witnessed a long

and strong tradition of protest against the military that bears more resemblance to an anti-imperialist movement than does any movement anywhere else in a U.S. territory (except the base at Okinawa). After all, independence activists did attempt to assassinate President Truman, and the sixteen Puerto Rican individuals who have been serving long sentences for bombing U.S. military establishments are regarded as political rather than criminal prisoners, and so were even offered clemency by President Clinton. Other manifestations of dissent include efforts by some sections of the island government to secure forms of international representation that inevitably compete with, or detract from, Washington's unitary presence on the world stage. Admittedly, it would be unwarranted to suggest that this might even raise problems under the fourth and final heading, *peaceful coexistence with neighboring states.* Puerto Rico has never shown any inclination to respond to overtures from the other Caribbean island occupied by the United States in 1898 (Cuba). But the mere fact that this possibility has existed serves to confirm the argument that the United States is not entirely exempt from the major issues of territorial integration that can be derived from the comparative democratization literature.

From a comparative perspective, the existence within an established democracy of territories with an anomalous status is not that exceptional. In the United Kingdom, Northern Ireland has its own party system and special arrangements (including some oversight by Ireland). Corsica has a troubled and disputed status within the French Republic. The eastern *länder* of Germany are recent additions with some distinctive transition problems. The 2008 decision in the West to recognize an independent Kosovo, detached from Serbia without the consent of the majority, is only the most recent illustration of the dangerous anomalies that can arise. Taiwan is another potential point of friction over the clash between democratic rights and the territorial integrity of states, and there are related issues in Canada and Spain.

From this perspective, the issue of Puerto Rico's unresolved status illustrates the normalcy, rather than the exceptionality, of the democratization trajectory of the United States. But there are some distinctive features to this case. The Puerto Rican anomaly is perhaps more striking than most others, given the supposed "immanence" of U.S. democracy. If this is the oldest, strongest, and most wholly invented of democratic regimes, one might expect it to have avoided the imperfections that history and geography bestowed on the less fully constituted European counterparts. If U.S. citizens have the most secure entitlements to legally enforceable rights, then it becomes all the more star-

tling to encounter such a sharp break in coverage for a large territory where those rights are not fully extended. (The parallel issue of the District of Columbia merits attention.) Puerto Rico's continuing provisional status after more than a century means that the outcome of U.S. elections still does not represent the balance of opinion of all U.S. citizens, despite what I described in chapter 2 as the self-perception of the United States as the "immanent" democracy *par excellence*.

So, territoriality is not the only topic where the democratization literature has some purchase on U.S. experience. A linked case can be made with respect to the rights of democratic citizenship. The foregoing discussion has presented some elements of this case with regard to Puerto Rico. The next section deals with this topic more fully.

The U.S. Bill of Rights, Rights in General, and Rights in Puerto Rico

Under the U.S. Constitution, all American citizens enjoy a precisely specified set of rights that are directly enforceable through the courts. These legal entitlements are built into the very foundations of the republic and are constitutive of American democracy. They delineate what it means to be a U.S. citizen, and they perhaps differentiate the rights inherent in "American" democracy from the less foundational and less binding features of citizenship rights in other, more recent and less "immanent" democracies. That, at least, provides us with a starting point for this section of the chapter, which reviews what the comparative democratization literature has to say about the construction of civil and political rights in democratizing regimes in general, and then seeks to situate the U.S. case within that framework. It concludes with some observations about the specific case of civil and political rights in contemporary Puerto Rico, because that provides an empirical way of testing the scope and limits of these purportedly uniform and directly enforceable citizenship entitlements.

A month before writing the U.S. Declaration of Independence in June 1776, Thomas Jefferson drafted the Constitution for the State of Virginia. The fourth section of his draft was entitled "Rights Private and Public," and it contained a list of provisions on such matters as freedom of religion, freedom of the printing presses, the right to bear arms, and equal inheritance rights for both sexes, which foreshadowed the first ten amendments to the U.S. Constitution of 1787, the "Bill of Rights" that was adopted in 1791. Both in Virginia and in the United

States, these fundamental provisions were seen as vital checks and balances to offset the potentially oppressive powers conceded to the executive (war-making and policy implementation) and to Congress (taxation and law-making). For this formula to work, it was essential for the citizenry to have direct access to a judicial pillar of government that was sufficiently independent of the first two branches to constrain them and to protect individual litigants. This approach to the rights of citizenship was, if not entirely new, much bolder and more categorical than its precursors.[5] This is not the place for a detailed discussion of the distinctive role of the judiciary, law, lawyers, and litigation in the U.S. political tradition. It must suffice to observe that these features of American constitutionalism were regarded as foundational and constitutive of the country's new political order. Trial by jury (with all voters eligible to serve, and juries not beholden to the judge), security of tenure for judges, judicial review, a written constitution, and legal continuity all contribute to the picture of enforceable legal rights as integral components of American citizenship. This, in turn, is seen as a central component of the "immanent" democratic order constructed by the Founders in the last decades of the eighteenth century.

While this "language of rights" has considerable allure, and while American jurisprudence and legal professionalism have become paradigmatic in the modern conception of democratic citizenship, it is essential for comparativists to note the pluses and minuses of this system and to keep in mind the possibility of alternatives that could have equal democratic validity. Jefferson himself noted that "by our laws . . . no alien can hold lands, nor alien enemy maintain an action for money or other moveable thing. Lands acquired or held by aliens become forfeited to the state . . . By our separation from Great Britain, British subjects became aliens, and being at war, they were alien enemies. Their lands were of course forfeited, and their debts irrecoverable."[6] In other words, the generous rights conceded by the State of Virginia were not unconditional or unlimited. The courts that might so strenuously uphold the rights of good Americans could also, and with equal vigor, deny or withdraw rights from those regarded as falling outside that worthy community. There was no extralegal protection for those assigned to an out-group (the "un-Americans"), and in due course not only these, but also defeated Native Americans, escaped slaves, wetbacks, Japanese American internees, Red agents, death row inmates, and now the prisoners in Guantánamo Bay have experienced the downside of this rights-based legal uniformity. Moreover, the right to bear arms can become the right to carry a semi-automatic into the classroom; or the legal right to private property can

override communal interests. No doubt the U.S. Bill of Rights is a great invention, worthy of emulation, and better than most available alternatives. But, from a comparative perspective, it is vital to think through all of its implications and not solely to celebrate its positive potential.

Let us turn to rights in general, therefore, and especially to the ways in which democratic rights can be characterized and compared in the democratization literature. Obviously, this topic is vast, so the discussion can only be extremely selective and filtered by the requirement to situate U.S. theory and experience in a comparative framework. One approach is to view the U.S. Bill of Rights as foundational not only for American democracy but for the dissemination of democracy throughout the world. Ronald Dworkin's (1996) work can be invoked as a reference point here. The comparativist may hesitate over his view that judges play essentially the same role in India, Italy, and South Africa as they are supposed to play in the United States, but, in any case, Dworkin's account makes it clear that not all democracies live up to what he regards as the American template (presumably, most Latin American democracies fall short in terms of what he calls "maturity"—not to mention the post-Soviet counterparts). The British constitutional principle of the sovereignty of parliament provides Dworkin with another awkward exception, which he hopes to see resolved soon.

In fact, the British democratic tradition contains a venerable strand of analysis that contested this conception of fundamental rights as justifiable entitlements that remain beyond the reach of conventional democratic politics. As early as 1795, Jeremy Bentham launched his frontal attack on the whole doctrine embraced by Dworkin. It is true that Bentham directed his spleen against the French rather than the U.S. Constitution (and it is worth reminding U.S. democrats that the French Declaration of the Rights of Man and the Citizen was issued on August 26, 1789, prior to enactment of the U.S. Bill of Rights), but his objection was to this whole philosophy of rights, as well as to the particular French provisions he also critiqued:

> Natural rights is simple nonsense; natural rights and imprescriptible rights, rhetorical nonsense, nonsense upon stilts . . . For immediately a list of these pretended natural rights is given, and these are so expressed as to present to view legal rights. And of these rights, whatever they are, there is not, it seems, any one of which any government *can* (in the cut-throat sense of the word can) *can* upon any occasion whatever abrogate the smallest particle. (Bentham, quoted in Schofield, Pease-Watkins, and Blamires 2002: xlvii)

So much for what he regarded as Terrorist language. What is the language of reason and plain sense upon the same subject?

> That in proportion as it is *right* or *proper*—i.e. advantageous to the society in question—that this or that right, a right to this or that effect, should be established and maintained; but . . . there is no right which, when the abolition of it is advantageous to society should not be abolished. To know . . . the advantage of society . . . the time at which the question about maintaining or abolishing it must be given, and the circumstances under which it is proposed to maintain or abolish it. (330)

In short, Bentham thought all rights should be subject to periodic political deliberation and review.

This is a fundamental issue, not only in democratic theory (which cannot be pursued here), but also from a comparative democratization perspective. As can be seen in Dworkin's and Bentham's writings, different nationalities may not approach these questions of theory from the same starting point. Each theorist may perceive the issues selectively in the light of a distinctive national history and a (possibly selective) reading of the respective merits of his own country's traditions and insights, when compared with those of foreigners. Moreover, the status of traditional practices, the prestige of the legal profession, distrust in elected politicians, and preference for general systems versus more pragmatic or empirical approaches can all vary with time and place. Consequently, an approach to rights that seems self-evidently correct and timelessly true for one community may be perceived as ethnocentrically slanted, or even perverse and self-serving, by another. Given the range and complexity of these issues, all that can be offered here is a brief survey of some alternative perspectives on rights in general that have exercised some influence over the comparative democratization debate. I have selected the priorities of Jeremy Waldron and Roberto Mangabeira Unger.

Jeremy Waldron's perspective is that of a legal philosopher, rather than that of a student of comparative politics. However, his standpoint on the U.S. Bill of Rights opens the way to the kind of comparative analysis that can enrich the democratization literature, and it is beginning to make an appearance there. He makes three key points. First, there is no necessary inference from a rights-based position in moral or political philosophy to a commitment to a Bill of Rights as a political institution, along with an American-style practice of judicial review. Second, thoughtful analysts need to be aware of the difficulty, complex-

ity, and controversy attending the idea of basic rights, and to be "hesitant about the enactment of any canonical list of rights, particularly if the aim is to put that canon beyond the scope of ordinary political debate and revision." And third, those who talk about rights need to pay more attention than they do to the processes by which decisions are taken under conditions of disagreement (Waldron 1999: 212).

The core of Waldron's theoretical critique is that "it was the *simplicity* of rights-based constraints that was supposed to be their main advantage over other more recondite and precarious modes of moral reasoning. The sad fact is, however, that this simplicity and moral certainty is unavailable. No-one in the trade now believes that the truth about rights is self-evident, or that if two people disagree about rights, one of them at least must be either corrupt or morally blind . . . In addition, theories of rights have to face up to controversies about . . . the forms of moral priority they establish: absolute duties, prima facie duties, lexical priorities, weighted priorities, agent-relative side constraints, agent-relative prerogatives, and so on" (225–26).

Of course, within the U.S. system, these moral complexities are eased for individual citizens by the existence of a powerful and prestigious judiciary with accumulated authority to clarify, and perhaps even resolve, some of these dilemmas and to interpret the resulting principles as they apply to a myriad of specific cases. But not all societies are so litigious, or so regulated by formal law. For a comparativist who deals with a wide spectrum of regulatory systems, Waldron's anxieties about foundational questions merit the most thorough consideration. For example, if there is strong disagreement in a society, if formal legal institutions lack deep penetration into the community or have to compete with informal processes, if the population is highly stratified or is for other reasons disinclined to demand its rights through the courts, in many different cases, the U.S. precedent may not work as expected by its admirers. Thus both Foucault (2000) and Habermas (1989), drawing on continental European examples, see the universalization of formal rights as a two-sided process. It can encroach upon the spaces within which the lower classes traditionally exercised some freedom through illegality; and it can impose abstract categories that distort the rich, preexisting "life world" of civil society. These possibilities may trouble European liberal theorists more than they worry most North Americans, because more of the European tradition has existed prior to, or outside the scope of, a socially hegemonic legal order. In most of the republics of Latin America, republican constitutionalism has provided the only formal framework structuring

social choices for almost as long as in the United States. But in Latin America the official system of rights has often failed to "bite"—enforcement is at best patchy and unreliable. (See Guillermo O'Donnell's section in chapter 2.) For most citizens in these democracies, their rights are understood more as aspirations than as enforceable entitlements. Even within the United States, it could be argued that, most of the time, most rights-bearers lack the time, the money, or the specialized knowledge to activate their theoretical birthrights.

Scholars familiar with the role of the Chilean supreme court in legitimizing the Pinochet coup, or the role of the Mexican courts under the Institutional Revolutionary Party (Partido Revolucionario Institucional, PRI) regime, may have some difficulty sharing U.S. liberal confidence that unelected judges can generally be trusted to protect basic constitutional rights or block the oppressive actions of an over-powerful executive. This type of concern may underlie Roberto Mangabeira Unger's (1996: 72–73) highly colored assertion that "one of the dirty little secrets of contemporary jurisprudence" is "its discomfort with democracy." He pinpoints "the ceaseless identification of restraints upon majority rule as the overriding responsibility of judges and jurists; in the consequent hypertrophy of counter majoritarian practices and arrangements . . . and on the single-minded focus upon the higher judges and their selection as the most important part of democratic politics." Comparativists who approach the construction of a durable system of democratic coexistence with this background in mind could have reservations about Dworkin's overreliance on an insulated judiciary to enforce individual rights and preserve social pluralism. From Dred Scott to the internment of Japanese Americans and the McCarthy era, the U.S. Supreme Court's record as a protector of vulnerable minorities is mixed—and has become so again after September 11, 2001. The contrary view rests on overgeneralizing from a single period of Court activism in the 1960s that was always precarious and only prevailed thanks to massive executive and congressional encouragement, conditions that were political rather than jurisprudential in character (as demonstrated in the work of Richard Kruger [1977] on the genealogy of civil rights rulings).

Thus, even within the United States, and certainly in other societies where legal traditions are more oligarchic or monarchical, the protection of civil and political rights may depend as much on extralegal norms and practices as on lawyers. Indeed, democracy may be needed to curb the abuses of the judiciary, quite as much as the judiciary is needed to curb the abuses of democracy. Of course, a collectively legitimate bill of rights can help promote both sides of this relation-

ship, but this requires a balance that has to be socially constructed. After all, even in the United States, and even with the benefit of a celebrated Bill of Rights, the U.S. judiciary permitted systematic slavery for about eighty years and effectively upheld discrimination against African Americans and their voting rights for a further century.[7] So, even in the heartland of the enforceable rights approach to democracy, the law has protected only those entitlements that the larger society has come to view as legitimate. As we have seen, similar considerations limit the voting rights of Puerto Ricans, to this day.

So, to conclude this section, let us briefly consider the status of democratic rights in Puerto Rico. This exercise should provide an empirical "reality check" on the rights-based language that suffuses analysis of U.S. democracy. It can also facilitate the task of comparison, helping us determine how far the experience of U.S. citizens resembles or differs from that of the citizens of other Latin American democracies.

Interpretations of the Puerto Rican experience are contested, no doubt reflecting the persisting tensions aroused by the unresolved status issue, so any brief synopsis is open to manifold criticisms. But, given this volume's concern with long-run political development, it is essential to recall that the island already had a long experience of constitutional government before the U.S. occupation of 1898. Without ranging all the way back to the 1810 Cortes de Cádiz, it is worth remembering that, in 1897, Spain granted its Caribbean islands a Charter of Autonomy (with Puerto Rico riding on the coattails of the more rebellious Cuba). This constitution retained Spanish sovereignty and power to appoint the governor and his cabinet, but Puerto Rican deputies could be elected to the Spanish Cortes (a more generous provision than any yet granted by Washington), and a bicameral local assembly was created. Elections were held in March 1898, and the new assembly was summoned on July 17. However, eight days later, American troops landed, the assembly was dissolved, and under Article 9 of the ensuing Treaty of Paris, "the civil rights and political conditions of the territories here ceded [by Spain] to the United States will be determined by [the U.S.] Congress." What followed is a complex saga that remains the subject of passionate disagreement. From a radical perspective, Manuel Maldonado-Denis offers the following interpretation (see also Cebollero 1945):

> From the beginning of North American occupation of Puerto Rico, the goal of the colonial power to culturally assimilate Puerto Ricans and to make "good North Americans" of them was clear . . . English was to be the language in which classes

> were to be taught in our public schools. This disastrously unpedagogical educational policy . . . was continued without interruption until 1948, thus providing the absurd case of a country which by *ukase* of an occupying power, could not allow its public school students to be taught in their native language. The same thing happened with all the symbols of Puerto Rican nationality: the flag, the national anthem, etc. As part of the process of cultural assimilation Puerto Rican students had to daily swear loyalty to the North American flag *in English*. Songs in English composed to inspire patriotism in North American children were brought to Puerto Rico and sung by Puerto Rican students, who did not really understand the meaning of the songs . . . The practice of law was also affected by the new order of things, for the penal and political codes of the states of Nevada and California were adopted in place of the respective Spanish codes. (Maldonado-Denis 1972: 133–44)

Of course, such assimilationist policies were also practiced by many other colonial powers during the first half of the twentieth century. The United States pursued the same language policy in the Philippines—but in that case there was no preexisting homogeneous linguistic community and, anyway, the commitment to preparing the territory for independence was made early on. President McKinley launched the assimilationist drive in Puerto Rico with the intention of preparing the island as rapidly as possible for statehood. But in 1901, the celebrated "Insular Decisions" of the Supreme Court resolved the island to be "a territory appurtenant—but not part—of the United States" (*Dooley v. U.S.*),[8] and thus paved the way for a half-century of colonial rule. For our purposes here, it is not so important whether or not the ensuing policies were enlightened or appropriate to the time.[9] The key question is whether they respected the citizenship rights of the islanders.

Technically, it seems that the U.S. Constitution, with its Bill of Rights, was not the supreme law of the island, except insofar as its provisions were incorporated into the Organic Act that Congress specifically provided for this jurisdiction (initially the Foraker Act, and in 1917 the Jones Act) or, subsequently, insofar as the 1952 insular constitution (accepted by Congress) enshrines such rights. Thus, for example, President Franklin Roosevelt was legally entitled to nominate the island's commissioner for education and to publicly instruct him to intensify the teaching of English in the school system (1937),[10] notwithstanding the opposition to this policy expressed by most Puerto Rican voters and their elected representatives, or the fact that the U.S. president was thereby imposing additional costs and inefficiencies on an educational system paid for by

local taxpayers. In 1945, and again in 1946, the Puerto Rican legislature approved legislation on the language of instruction, and each time the bill was vetoed by the Washington-appointed governor on the grounds that the local congress was encroaching on the power of the commissioner of education. Only in 1947, with passage of the Elective Governor Act, did the U.S. Congress implicitly concede control over domestic issues. The first elected governor immediately appointed a commissioner of education committed to the restoration of Spanish as the language of instruction, with English as a second language. The 1952 constitution aimed to reconcile U.S. sovereignty with insular home rule, and therefore had to be acceptable in both languages (hence "Commonwealth" as well as "Estado Libre Asociado"). Not until 1991 did the Puerto Rican congress (to the great irritation of the pro-statehood party) finally proclaim Spanish to be the island's official language. By this time, it was the turn of some of those who had acquired fluency in English to protest that their rights were under threat.

Thus far, we have seen the unresolved issue of citizens' rights in two crucial areas—the right to vote and the right to education in the language of one's people. The significance of this discussion is what it reveals about the continuing "unevenness" of the distribution of rights throughout a territory subject to U.S. sovereignty. Some may be aggrieved by these anomalies, others may be aggrieved by corrections to these anomalies, and yet others may consider them either appropriate or acceptable intervening steps on the path to full statehood. Whichever position one adopts, the Puerto Rican case clearly demonstrates that, even within the "immanent" democracy of the United States, basic rights are not uniform and equally available to all citizens. They are socially constructed, variable over time and space, and may be subject to fierce contestation.

We can round off these general conclusions by considering some more strictly legal arenas of contestation. When the island's legislature came to draft the 1952 constitution, it sought to include a bill of rights. Although the U.S. Bill of Rights provided the baseline, the legislators set out to produce a more modern document (and one more in line with contemporary Latin American practice). So their draft also established a right to work, free education, and various benefits for the unemployed and for pregnant women. But the U.S. Congress insisted that these additional provisions be modified. Even so, Puerto Rico's constitution goes well beyond the U.S. template (and beyond what the island can deliver) in terms of provisions concerning "social protection" and medical care (Article II, Section 20). With regard to the justice system, the constitution provides for a jury system, habeas corpus, the right to bail, and presumption of innocence. But

again, it goes beyond the U.S. minimum standard by outlawing the death penalty, wire tapping, and denial of the vote to the incarcerated once they have served their sentences. (This last provision would considerably enlarge the U.S. electorate if fully implemented on the mainland.) On paper, therefore, Puerto Rican islanders can lay claim to a more generous array of civil and social rights than are available to mainland U.S. citizens. One might consider these additional legal entitlements as a partial compensation to offset the reduction in voting rights. Whether or not this is a legitimate or socially acceptable trade-off, and whether the resulting configuration is therefore stable, remains a controversial matter. Critics would say the benefits are tokenistic, whereas the exclusions are real and substantive.

The Puerto Rican evidence confirms Waldron's strictures about the complexity of rights. It adds a new dimension to Unger's concern with the way legal rules interpreted by unelected judges can suppress or distort the democratic expression of legitimate majoritarian aspirations. It highlights an easily overlooked underside to North American constitutional democracy, although it can also be read as showing how that system might be perfected over time. It confirms that in the U.S. system, legal rights are relatively enforceable (when acknowledged) and painfully out of reach (when not conceded). If we compare U.S. and Latin American democracies through the lens of Puerto Rican experience, our findings tends to support the idea that the first variant of democracy treats rights as legal entitlements, whereas the second views them more as political aspirations. Puerto Rico inclines toward the U.S. pole, but it still occupies a somewhat intermediate position on this matter. It still stands at the margin of U.S. self-confidence in its system of rights, because the island's supreme court can still be overruled by its counterpart in Washington and the island still stands at the margin of the United States as a nation, which brings us to our final topic for comparative analysis: national identity.

National Identity

The focus here is on Puerto Rico as an unresolved test case of both the scope of U.S. national identity and the democratic content of a sustained U.S. projection of its power beyond the continental mainland. Of course, this is only one small component of a much larger agenda.[11] Any conclusions drawn from the Puerto Rican experience (which is still open-ended) would be insufficient to settle the broader issues. Nevertheless, it is a relevant example, and it generates a check-

list of considerations (both positive and negative) that can be applied more generally. In addition (as developed in the chapter's conclusion), it facilitates a focused comparison between the United States and other long-established democracies.

It is possible to argue that the U.S. projection of naval power in 1898 also served the cause of promoting democracy. This case would have to rest mainly on a debatable treatment of the alternatives available in Cuba and of the benefits to be derived from a U.S. military occupation that would pave the way to Cuban independence under U.S. supervision (the Platt system). However that may be, the war of 1898 was not geared toward promotion of democracy in Puerto Rico. The island was acquired as an unplanned extra, and it quickly became apparent that Washington was not willing to grant either statehood or independence. Colonial rule may have been law-based and relatively benign (with a local elected assembly), but it was no clear democratic advance on what would have been available without the U.S. occupation. More precisely put, the claim that rule from Washington was more democratic than rule from Madrid rested on a set of nationalist assertions (the superiority of the English language and of Protestantism as bearers of democracy) that were most unlikely to persuade any but the most patriotic of Americans, and would embarrass any contemporary comparativist.

The granting of U.S. citizenship under the Jones Act of 1917 can be viewed as a partial fulfillment of the nation's democratic pretensions, and as a measure that both served the U.S. national interest (providing recruits for World War I) and differentiated U.S. democracy from its European imperial counterparts. Raymond Carr captures the ambiguities nicely:

> the "supreme gift" of citizenship was the fruit of congressional weariness as much as of democratic conviction. Outright racial prejudice was still expressed . . . However, since *white* Americans had invested in Puerto Rico, the island had to be kept; and "if kept against the will" of the inhabitants, they must be made citizens and irrevocably tied to the United States . . . it was "passive citizenship" that denied Puerto Ricans representation in Congress . . . the concessions of the Jones Act fell far short of the "Canadian" solution that might have made such an inferior citizenship tolerable . . . The two central concessions . . . were the *collective* grant of citizenship to Puerto Ricans and the replacement of the Executive Council by a Senate elected *in toto* by universal manhood suffrage . . . (which removed the veto of an upper house dominated by presidential appointees). It gave the local legislature

> more powers than those enjoyed by any Antillean colony . . . [but] rather than providing a satisfactory government for Puerto Rico, as Congress hoped, the concessions of the Jones Act sharpened colonial tensions. (Carr 1984: 52–53)

The full political consequences of this ambiguous compromise took time to unfold. Puerto Ricans now had U.S. citizenship, so they were free to travel and work anywhere on the mainland. In due course, a "second Puerto Rico" grew up in New York, with its own representation in the U.S. Congress, participation in the congressional Hispanic caucus, and some leverage in Washington on at least some issues of concern to the islanders. Similarly, as U.S. citizens, the islanders became eligible for certain federal welfare benefits, eventually including food stamps. Beginning with the Democratic presidential primary—where they supported Jimmy Carter in 1976—the islanders acquired a voice in the selection of U.S. presidential candidates. They also enjoyed the use of the U.S. dollar, protection by the U.S. military, unrestricted trade with the mainland, and a regime of federal tax incentives that relocated corporate investment into their jurisdiction. After 1952, they had their own constitution, judiciary, bill of rights, and flourishing local political establishment that operated within a democratic institutional framework quite as solid and vigorous as any to be found elsewhere in Latin America. It is therefore possible to present a reading of the Puerto Rican experience in which, over time, the projection of U.S. power, and U.S. paternal protection, eventually served to build up and stabilize a more or less "showcase" Caribbean democracy. Perhaps the process was too long and at times imperfect—and, of course, the lack of sovereignty is a flaw (until eventually remedied, on this reading, by the establishment of statehood)—but the relevant yardstick is the rest of the Caribbean. If so, it can be argued that the United States has both served its own security interests and, on balance, lived up to its ideals.

The alternative yardstick would be the standard of democratic performance guaranteed (according to the national mythology) to all U.S. citizens. It is this high and supposedly uniform standard that would be needed to place the United States in an incomparable category. After all, Puerto Ricans started with an alternative linguistic, cultural, and (potentially) national identity. The other Caribbean nations with which the island can be favorably compared have retained that claim to self-government. If the islanders are not to have their sovereignty, then—on this alternative view—the correct criterion of judgment should be how their democratic rights compare with those of other U.S. citizens, not how they compare with those of the nationals of other sovereign states. The relevant

standard is, however, the rights actually enjoyed by mainland U.S. citizens, rather than the rights potentially conferred by a liberal reading of the law. Thus, although Gordon K. Lewis (1963: 338–46) makes an effective case against the Puerto Rican authorities for their abusive application of anti-sedition laws in the early 1950s, his criticisms do not meet this standard, because he concedes that the island's anti–free speech law of 1947 was uncritically copied from the federal Smith Act of 1940.

By this alternative yardstick, it is possible to present a more cynical reading of the projection of U.S. power and the costs it imposes in terms of democratic performance outside the mainland. As we have seen, the denial of the vote for Puerto Ricans in U.S. presidential and congressional elections constitutes a striking and much resented form of political discrimination, suffered by no other U.S. citizens (not even the inhabitants of the District of Columbia). The legal protections provided by the federal Bill of Rights and backed up by the U.S. Supreme Court are not available to islanders on the same basis as to mainlanders. (They *are* available, but through a distorting filter, both because of the language issue and because of the potentially conflicting competencies of the federal and Puerto Rican supreme courts.) When the U.S. State Department issues its annual report monitoring the condition of human rights around the world, it excludes Puerto Rico from consideration because the island lacks a separate sovereign jurisdiction. Yet the island may be subject to legal and administrative constraints (under the Homeland Security Act, for example) that are more burdensome than on the mainland. It has no access to the Inter-American Court of Justice or the Organization of American States, even though it has experienced a series of violent political episodes specifically rooted in the unresolved status issue (such as the unresolved killings of two pro-independence activists in a police ambush on July 25, 1978, known as the Cerro Maravilla killings, after the mountain where it occurred; or the dispute about retaining a U.S. Navy bombing range facility on the island of Vieques, Puerto Rico). The U.S. Congress may approve a North American Free Trade Area or an eventual Free Trade Area of the Americas, thereby indirectly revoking the favorable tax conditions that have been the basis of the island's industrialization, and the affected U.S. citizens have no vote on the matter. Their sons and daughters are still sent to fight and die in foreign wars over which they have no say. It is hardly necessary to elaborate further on the ways in which their political rights fall short of what is generally recognized as the essential minimum preconditions for democratic citizenship. So the remaining question is whether these disadvantages arise from

the projection of U.S. power into a society other than its own. Is Puerto Rico, or is it not, part of the U.S. national identity?

There has been an ambiguous answer to this question for at least half a century. In principle, it could still be resolved by the granting of statehood (and the U.S. Congress could, in theory, approve the Puerto Rico Democracy Act, leading to a two-stage referendum before the end of 2009). To take this step would involve a significant recasting of the U.S. national identity. It would reinforce the trend toward multiculturalism and bilingualism that is already so evident in much of the South and West, as well as in the major cities. It would subtly rebalance the internal equilibrium between the two main political parties. It would add to the pressure from a relatively poor electorate for increased welfare spending and perhaps even for redistributive taxation. And it would signal a shift in stance toward the other democracies of the western hemisphere. It might well carry implications for the long-term future of Cuba. All in all, a decision to change the status of Puerto Rico would represent a very significant redefinition of the national political identity of the United States. Precisely for this reason, the odds against an early decision of this kind remain substantial. To the extent that the status quo persists into the medium-term future, the United States will preserve its current political identity at the cost of discriminating against the democratic rights of the four million citizens living on the island.

Other democracies face similar problems, and their solutions are not necessarily preferable. The status of the French DOM-TOM (départements d'outre-mer–territoires d'outre-mer), including nearby Guadeloupe and Martinique, remains a contested issue, with some significant similarities. The British Caribbean territories are governed with more paternalism and less attempt to equalize rights than were either the American or the French possessions. Looking further afield, we could also discuss the place of Chiapas within a federal democratic Mexico, the role of Quebec within Canada, and so forth. The main difference between all these cases and the U.S. example is that only Washington purports to be the incarnation of democratic virtue and the bearer of universal values worthy of transmission, and unilateral imposition, around the world. On the evidence summarized from Puerto Rico, the comparativist would have to conclude that there remains significant scope for U.S. democracy promotion at home as well as abroad and that, when it comes to balancing the national interest against democratic principle, the United States is not as different as Washington's rhetoric would indicate. There seems at least a prima facie case for treating the U.S. case as one of a cluster.

Conclusion: "Immanence," U.S. Power, and Puerto Rico

If one accepts the view (expounded in my section in chapter 2) that the United States can be classified as an "immanent" democracy, this not only places its internal legitimacy beyond question, but can also justify the projection of American power into less fortunate lands. There was an element of this democratic evangelism in the nineteenth-century doctrine of "manifest destiny" and in the Monroe Doctrine. It can also be found in many catchphrases, such as the description of the United States as the "last best hope for humanity" or as leader of the "Free World," or in Francis Fukuyama's *The End of History* (1992) and Tony Smith's *America's Mission* (1996). Most recently, it has been articulated in President George W. Bush's 2008 state of the union address promising to democratize the Arab world, and in repeated U.S. declarations, and indeed congressional measures, supposedly promoting the democratization of Cuba. When the United States advances its national interest, strengthens its alliance system, or defeats its rivals, all these projections of power are understood domestically as not just good for the America but good for democracy and good for the world. This confidence in the United States' distinctiveness and inherent virtue seems to be a constitutive feature of the republic's national identity. No other country, however long-established its democratic traditions, can be relied on to act as the custodian for eternal (God-given) democratic values in the same way.

The United States also shelters another tradition. From an initial assumption of democratic immanence, it is also possible to reason that the existence of less secure or more compromised democracies in the rest of the world requires the United States to turn inward, to protect its unique political legacy from external contamination. From this perspective, the evangelical projection of American power overseas may do more harm at home than it does good abroad. Given that both these viewpoints incorporate the same assumption of the democratic exceptionalism of the United States, it is possible to oscillate between them in accord with the ebb and flow of Washington's efforts to remake the world in its own image, without questioning the underlying assumption of immanence. The unresolved tension between this ambition for a global reach and the associated isolationist recoil is vividly exemplified by the continuing status predicament of Puerto Rico.

American political development scholars can help us evaluate the ways in which democratic principles may be regarded as truly constitutive of the U.S.

national identity. From a historical perspective, it must be clear that these principles have assumed significantly different forms over time, were socially constructed, and—initially at least—were imperfectly realized. Within this framework, the key issue is how far we can view the eventual outcome as the fulfillment of an original and distinctive U.S. project present from the outset, as opposed to arising from other sources, with a democratic mythology projected backward in time to legitimize the resulting political order.

From a comparative democratization perspective, the United States is not the only example of a self-confident democratic regime that has come to view its free political institutions as an integral component, its national identity. As mentioned in chapter 2, similar legitimizing myths probably hold sway in Australia, Canada, Costa Rica, Denmark, Norway, Sweden, Switzerland, and the United Kingdom (the list is illustrative rather than exhaustive). There are also significant cases where such beliefs arguably used to persist, until contradicted by undeniable experience (as in Chile and Uruguay, among others). This is a significant subset of the universe of contemporary electoral democracies—a hard core of the most self-assured. Reviewing the list, it is evident that in all these cases there was a clear and substantial pre-democratic political history (the penal colony origins of Australia, for example). So some work is needed to present the coming into being of the modern nation as coterminous with the adoption of a democratic constitutional project. In the case of the United States, this enterprise can be projected further back in time and can perhaps be more precisely dated than for the other countries under consideration. But for a comparativist, it is not self-evident that this seniority is sufficient to place the United States in a category apart from all other potentially "immanent" democratic regimes. What does seem more distinctive of the United States is the apparent infusion of the national interest with moral virtue because of its supposed alignment with the cause of global democracy.

General discussions of this kind risk becoming either too abstract or too ideological. National loyalties and clashing mythologies can crowd out the relevant evidence. If any "really existing" contemporary democracy meets the conditions for inclusion in this "immanent" category, the United States, as this chapter has shown, belongs there. This may be just a more elaborate way of repeating the familiar observation that, for nationalist reasons, the U.S. Constitution has to be sacralized, or made into a "civic religion." As with other religions, not all believers are equally committed, and rival objects of sanctity can also be entertained.

Pursuing that metaphor, this chapter has attempted a secular reconstruction of the genealogy of the United States of America's democratic faith, inquiring into three aspects of how it was constructed: its territorial basis, the language of rights, and its entanglement with the question of national identity. Under each of these headings, it tested the limits of the conventional belief system against the evidence of an awkward test case, the "Commonwealth" of Puerto Rico.

CHAPTER FOUR

Same Dream, Different Fates

Latinos' Inclusion/Exclusion and U.S. Democratization

Francisco E. González

The case of the inclusion or exclusion of the Latino/Hispanic population in U.S. society reveals the United States to be, as noted by Desmond King and Robert Lieberman in chapter 1, both an old and a new democracy.[1] It can be seen as old because a substantial proportion of the big wave of Latinos entering the United States since the 1980s has been incorporated into the mainstream of the country's social fabric, in great measure thanks to the open political institutions that have evolved in the United States since its birth as an independent nation. And the United States can be seen as a new democracy because the continuing presence of masses of recent immigrants, a large proportion of whom are Latinos, has presented the country with the challenge of incorporating newcomers on a permanent basis.

Democratization is not a linear, one-dimensional political process. Rather, as King and Lieberman's chapter sets out, it is more commonly nonlinear and multidimensional. First, it is a historical process that can wax and wane (Gerstle and Mollenkopf 2001), and second, it is a process that occurs not only in the sphere of political rights but also in the area of civil and social rights. Of particular importance to the study of democratization, and increasingly of American political development, is the assessment of state institutions and agents as crucial forces that advance or hinder the creation and nurturing of democratic forms of linkage between constituted political authority and society in the multidimensional process of democratization. This perspective has been studied in

detail for the case of African Americans' inclusion in the U.S. political system (Davidson and Grofman 1994; Dawson 1994; R. Smith 1997). That framework is also applicable to the comparative study of old and new democracies in developed and developing countries.

This chapter shows that the study of Latinos' inclusion/exclusion in the U.S. democratic process can illuminate relevant contemporary concerns directly related to the central role of U.S. state institutions and agents in sometimes advancing and sometimes limiting the capacity of members of this population group to fully exercise civil, political, and social rights (J. González 2000; Gracia 2000). Democratization in the United States means different things to different Latino subgroups. This is not particular to the Latino population. Asian immigrants to the United States have also faced different challenges and opportunities for incorporation, depending on the time they arrived, the country they came from, and their initial immigrant status once in the United States.

Latinos comprise a diverse population in the United States. Some have been successfully incorporated into the U.S. polity and are able to exercise civil, political, and social rights (foreign-born, naturalized Latinos; Latinos born in the United States); others are in the process of potentially gaining incorporation but still cannot exercise political and some social rights (Latinos with nonimmigrant visas; those with immigrant visas who must go through further procedures to gain permanent residence; permanent residents who have not naturalized); and still others, a growing group of Latinos, are excluded and cannot exercise any rights (illegal immigrants)—forming what historian Mae Ngai (2004) terms "impossible subjects." The more than half-million illegal immigrants who marched in Los Angeles in March 2006—with the largest student walkout in the history of the state—in opposition to proposed legislation in the U.S. House of Representatives personify this last group.

The group of fully included Latinos best illustrates one narrative of American liberalism (see, e.g., Lipset 1963, 1996), a process whose outcome is full inclusion through the exercise of individual rights. The group of potentially included Latinos, and particularly the group of excluded Latinos, illustrate the revisionist narrative by Rogers Smith (1997) of "multiple traditions," in which both liberal and illiberal political forces in the United States have fought over the inclusion/exclusion of different population groups into the American polity. Additionally, the group of excluded Latinos illustrates a growing problem that remains understudied in both the democratization and the American political development fields: the increase in illegal immigration to advanced industrial-

ized democracies and its effects on these countries' political institutions, electorates' public opinion, political conflicts, and public policies enacted to cope with this challenge (King 2000; Rubio-Marin 2000; Ngai 2004).

U.S. national institutions and agents are among the main factors that have structured the differential inclusion/exclusion of distinct Latino subgroups into the U.S. political process. Drawing from chapter 1, I flesh out this proposition by investigating U.S. state-society linkages in three spheres: first, the sphere of membership, which defines which individuals can gain full inclusion through citizenship, and how they can do so; second, the sphere of electoral contestation, the heart and soul of democracy (Dahl 1971), and its impact on immigration legislation (Diaz 1996; Hero and Campbell 1996); and third, the international sphere, which in the case of American foreign policy has been influential in establishing inclusion/exclusion for Latinos of different nations (Perez 1990; Dudziak 2000; Katznelson 2002a).

Latinos in the United States: From Absence to Tidal Wave

Peoples from Latin America—Spanish or Portuguese subjects in 1787—did not figure in the Founders' imagined nation. For Latin Americans to come into contact with the American polity, either that polity had to come to them or they had to go to that polity. Both types of exchange occurred. The first type of contact predominated in the nineteenth century and early decades of the twentieth century, through U.S. territorial expansion, the redrawing of international boundaries, and the establishment of protectorates (the Mexican-American War, 1846–48; the Spanish-American War, 1898; and Central American and Caribbean intervention and protectorates, 1900s to 1930s). The second type of contact has predominated mainly since the 1960s, through mass immigration from Latin America to the United States.

As figure 4.1 shows, the exponential growth of the foreign-born U.S. population of Latin American origin can be traced to the ending of the national origins quotas for immigration in 1965. Latin American immigration exploded in the 1980s in the wake of the region's international debt crisis, which led to the "lost decade" of social and economic development. In the 1990s, people of Latin American provenance overtook—for the first time in history—those of European provenance as a proportion of the total foreign-born population in the United States. By 2000, more than 50 percent of the total foreign-born population was Latin American (and two-thirds of this population was of Mexican

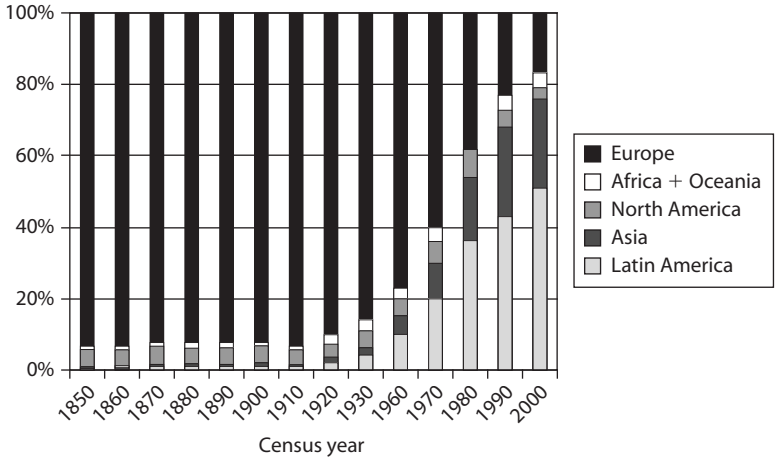

Figure 4.1. Foreign-Born Population in the United States by Region of Origin, 1850–2000. *Source:* Data from U.S. Census Bureau 2000b.

origin). The 1990s also witnessed important growth in total foreign-born population as a proportion of total U.S. population: from 7.9 percent in 1990, to 10.9 percent in 2000, to 11.5 percent in 2001. Such growth eclipsed that in other immigration-recipient countries, such as Australia (growing from 22.8% in 1990 to 23.6% in 2000), Canada (16.1% in 1990 to 17.4% in 1996), and Germany (8.4% in 1990 to 8.9% in 2001).[2]

The tidal wave of Latino population in the United States is not homogeneous. This is important for an analytical perspective focused on U.S. democratization, because it illustrates that democracy and democratization mean different things to different Latino subgroups.

Mexicans constitute two-thirds of the U.S. Latino population. Their socioeconomic profile shows that, on average, they are one of the least educated and poorest Latino groups. More than 49 percent do not have a high school diploma; 24.1 percent of Mexican families live in poverty. Mexicans make up more than 40 percent of all illegal migrants in the United States (estimates for all illegal immigrants in the United States in 2003 established a floor of at least 8 million and a ceiling of 11 to 12 million), making this the largest single national group in this category. Cubans are the most affluent Latinos in the United States: 73 percent have at least a high school diploma, and only 17.3 percent of Cuban families in the United States live in poverty. Puerto Ricans have held U.S. citizenship since 1917 and, as a result, they are free to move to and from the U.S.

mainland in a way that has created a circular pattern of migration. They are less educated and less well-off than Cuban Americans: 36 percent have at least a high school diploma; more than 25 percent of Puerto Rican families in the United States live in poverty. The Central and South American population in the United States has some of the least educated and poorest national groups, such as Salvadorans and Guatemalans, and some of the most affluent, such as middle-class Argentineans, Chileans, and, since the early 2000s, Colombians and Venezuelans. On aggregate, 36 percent have at least a high school diploma, and 16.7 percent live in poverty (U.S. Census Bureau 2000a).

Each subgroup has different civil, political, and social rights' needs. Such needs are strongly anchored in the initial conditions that each subgroup faces in terms of legal and socioeconomic status. Thus, a large proportion of Mexicans in the United States belong to the most excluded of Latino subgroups, not only because they are illegal immigrants but also because they are uneducated, live in poverty, and earn the lowest wages in the land (unskilled labor wages for illegal immigrants). A great contrast is represented by the early waves of Cuban immigrants after the 1959 Cuban Revolution. The great majority of individuals in this subgroup are U.S. citizens who exercise full civil, political, and social rights, and their socioeconomic status is equivalent to or higher than that of the average white American. Yet another special subgroup is Puerto Ricans, many of whom—despite U.S. citizenship (albeit a restricted type, because Puerto Ricans residing on the island cannot vote in U.S. presidential elections, but those residing on the mainland can)—face acute social needs because of their low educational attainment and high poverty rates.

Socioeconomic status is an important marker of Latino subgroups' heterogeneity. But this is a characteristic that, by and large, the different Latino subgroups brought with them to the United States. To capture the effect of the U.S. state and its laws and agents in reproducing Latino heterogeneity, we have to look at the basic framework that regulates the legal status and citizenship of individuals in the United States.

Latinos and U.S. Citizenship

The legal and institutional framework that establishes and regulates U.S. citizenship is relatively simple. Citizenship in the United States can be obtained by birth or by naturalization. The first category applies to anyone born in the United States or its territories (including Puerto Rico, the U.S. Virgin Islands,

and Guam; it also applies to certain Panamanians). Foreign-born children of U.S. diplomats and foreign-born children whose parents were U.S. citizens at the time of the birth are also U.S. citizens ("derivative or statutory citizens"). The second category refers to immigrants eligible to apply to become U.S. citizens by "naturalization." Naturalized U.S. citizens are foreign-born individuals who are granted citizenship by the U.S. Citizenship and Immigration Services (CIS; formerly, the Immigration and Naturalization Service, INS). Naturalized citizens enjoy all the rights and privileges of U.S. citizenship, including the right to vote. Several rules regulate naturalization: applicants must have resided in the United States for five years; have good moral character; demonstrate that they speak English well; and understand how the U.S. government works.[3]

Unlike the relatively simple framework that regulates U.S. citizenship, the framework that regulates non-citizens' legal status is complex. The first distinction is between "non-immigrant" and "immigrant" individuals. The former are in the United States on a temporary basis, while the latter seek to establish permanent residence in the country. Non-immigrant visa categories are revised continuously. In early 2006, there were eighty-one non-immigrant visa categories,[4] including temporary visitors, students, and temporary workers. Immigrant visas are of several types. Some individuals can receive Temporary Immigration Status (Latinos already in the United States from El Salvador, Guatemala, and Nicaragua can apply for this status). Immigrants who have jobs lined up in the United States can also get temporary immigrant visas. Other groups can be eligible for permanent residence. Of these, some proceed through regular channels and are "lawfully admitted for permanent residence" (this includes relatives of U.S. citizens or legal residents), while others may apply for refugee status (if they are outside the United States) or for asylum (if they are already in the United States or at a port of entry), which can lead to permanent residence. A growing Latino subgroup, however—illegal immigrants—is not covered by the legal and institutional arrangements that regulate citizenship. Latinos make up 80 percent of the estimated twelve million illegal immigrants in the United States. Illegal immigrants are individuals who live and work in the country illegally—that is, without the legal sanction of the immigration authority.

The greatest challenge for U.S. democratization in the state-society linkage that regulates membership/citizenship lies with this growing population of illegal Latinos, who live in a legal limbo (Ngai 2004). Some, for instance, pay income tax despite lacking rights. Of the various Latino subgroups, this is the most vulnerable and the most far-removed from the U.S. ideal of a nation of im-

migrants that rewards hard, honest, working people, regardless of creed, color, or station in life, with full inclusion—the "American creed" narrative. Of particular concern is that more than half of the estimated illegal population of the United States comes from a single country, Mexico. Furthermore, proposed legislation in the House would make being an illegal immigrant a crime rather than a civil offense.

Prospects are not as hopeless for the intermediate Latino subgroup—those who are waiting to gain legal residence and, eventually, naturalization. This subgroup's fate is regulated by the U.S. immigration system's legal and institutional arrangements, but the system's operation is deficient. For example, the federal government currently makes available 480,000 visas annually for relatives of citizens and residents with green cards. The waiting list is very long. Legal U.S. residents from Mexico who applied in 1999 for permission to bring a spouse and/or children to the United States did not start receiving their visas until early 2006. Immigration lawyers have rightly remarked that if family reunification can take up to seven years, there is a strong incentive to come to the United States illegally.

Full inclusion in the United States is not even on a strong footing among the better-off, legally resident Latinos who are not yet U.S. citizens. One would expect the number of years of residence in the United States to correlate strongly with levels of naturalization, because prospective citizens must reside in the country legally for at least five years before being eligible to apply for naturalization, but inter-ethnic differences remain salient. Since the 1970s, Latino immigrants have been half as likely as immigrants of other ethnicities to naturalize. The contrast with Asians is particularly striking. Evidence from the 2000 U.S. Census suggests that the reason many Latinos do not naturalize is that they do not meet all the requirements. Even if they have resided legally in the United States for five years and have a clean record with the law, the major barrier for many Latinos remains language competence. Almost 15 percent of the forty million Latinos in the United States in 2000 did not speak English "at all," while a further 20 percent spoke English "not well" (U.S. Census Bureau 2003). This hindrance bars eligible individuals from gaining U.S. citizenship. Recent empirical assessments about Latinos' willingness or resistance to adopt English as their first language suggest that this group is no different from previous immigrant groups to the United States. By the second generation, only 6 percent of Latinos remain as Spanish-only speakers, although their level of English proficiency is low (21%) (Pew Hispanic Center and Kaiser Family Foundation 2002:

3–5). This need not be a permanent problem (just as it wasn't for earlier generations of non-English-speaking immigrants, who learned English, integrated, and became U.S. citizens). From the perspective of U.S. democratization, the fundamental issue remains that, at least formally, naturalization remains open. As long as individuals with immigrant visas meet the necessary criteria and are eligible for full inclusion through citizenship in the future, the system will retain is great capacity to absorb newcomers.

In sum, because of the U.S. state's legal and institutional arrangements that structure the basic state-society linkage regulating legal status and citizenship (F. González and King 2004), the Latino population has been distributed along different membership tracks. For many, the promise of the American liberal vision of full inclusion through the exercise of rights of citizenship is a reality. For another Latino subgroup, full inclusion remains a promise for which they are waiting. Even many of those who finally earn legal residence status face the language barrier before they can naturalize and earn full citizenship—that is, gain the effective exercise of political rights. The most vulnerable Latino subgroup, illegal immigrants, remains in a legal limbo.

As these data on legal status and citizenship show, democratization means different things for different Latino subgroups. Of particular concern is the uncertain legal position in which the growing numbers of illegal immigrants find themselves. For this subgroup, the only hope of inclusion remains immigration amnesties.

U.S. Elections and Immigration Reform

Elections are a fundamental state-society linkage in liberal democracies. This section illustrates how two recent major reforms to the U.S. immigration system occurred at least partly as a result of partisan electoral competition in the run-up to the midterm election of 1986 and the general election of 1996. These measures were not meant as anti-Latino initiatives per se. They affected migrants as a general category, but Latinos were affected disproportionately because of their majority share in the immigrant population.

As a preamble to the midterm elections of 1986, President Ronald Reagan ignited the issue of immigration reform by asserting that the United States was losing control of its borders to illegal immigrants. In the view of several immigration experts, this emphasis led to the transformation of "undocumented immigration from a useful political issue (which it had always been) into a more

fundamental issue of national security . . . Henceforth immigrants were connected symbolically with invaders, criminals, and drug smugglers" (Durand, Massey, and Parrado 1999: 521). The legal outcome of the offensive was the Immigration Reform and Control Act (IRCA), signed into law on the eve of the congressional elections of 1986.

To cater to their constituencies' diverse interests in the midst of electoral competition, the drafters of IRCA combined both inclusion and exclusion measures. Among the inclusion measures were an amnesty for illegal immigrants and a special legalization program for agricultural workers (located mainly in California and Texas). The amnesty came out of a Republican strategy that had tried to counteract African American electoral support for the Democratic Party by courting the Latino vote (Tichenor 1994: 342). Democrats also pushed for the amnesty. Exclusion measures, among them the strengthening of the Border Patrol and tougher sanctions for employers of illegal workers, were part of the traditional conservative Republican agenda.

From the perspective of democratization, IRCA can be seen as a product of the free operation of U.S. political forces in the run-up to midterm elections, whose legal outcome combined some measures that enabled democratization and others that hindered it for the Latino population.

The main Latino subgroup affected, positively and negatively, by the 1986 immigration reform was illegal immigrants from Mexico. More than 90 percent of apprehensions by the Border Patrol after the enactment of IRCA were of Mexicans. On the positive side, 70 percent of those granted amnesty, an estimated 2.3 million, and 80 percent of the legalized agricultural workers were also Mexican (Durand, Massey, and Parrado 1999: 522). The most important effect of IRCA that enabled U.S. democratization was that the amnesty triggered additional legal immigration. Estimates suggest that the probability of family members joining a legalized individual in the United States increased sevenfold vis-à-vis that for families of illegal immigrants (525). As legal dwellers in the United States, these individuals are able to exercise civil and some social rights, though not political rights (until they naturalize).

On the negative side, the main IRCA measure that hindered U.S. democratization was the tougher sanctions imposed on employers who hired illegal immigrants. A side effect of this measure was the lowering of immigrant workers' wages due to a boom in subcontracting, and the deterioration of working conditions (528). Given that we cannot speak of the worsening of illegal immigrants' social rights, because they possess none, what we can infer is that IRCA's

sanctions on employers for using illegal labor led to a worsening of illegal immigrants' basic social and living conditions.

A second instance of immigration reform shaped by U.S. elections was the Immigration Reform Act of 1996. Republican control of Congress in 1994 gave chairmanships of the Senate and House Judiciary subcommittees to long-term advocates of restricting legal and illegal immigration: Rep. Lamar Smith (R-Texas) and Sen. Alan K. Simpson (R-Wyoming). The bill they intended to pass before the 1996 elections aimed "to crack down on illegal border crossings, reduce legal immigration and deny federal benefits to many nonnative residents" (Congressional Quarterly 1997b: 1). However, the bill that was finally passed contained, again, inclusion and exclusion measures that were related to politicians' constituencies. For example, protests by business groups and civil libertarians led Republican sponsors of the bill to water down their proposal to create a nationwide system to verify the immigration status of job applicants (1). Likewise, pro-immigration and civil rights' groups put pressure on President Clinton, who was seeking reelection, to campaign against provisions to restrict the access of non-citizen immigrants (both legal and illegal) to means-tested federal and state benefits. Even though the president succeeded in forcing the dropping of some of these provisions,[5] he had already (in 1996) signed the Welfare Reform Act, which "barred most federal welfare benefits for legal immigrants until they became citizens or, in the case of new immigrants, for their first five years in America" (1).

Unlike the 1986 immigration reform, the 1996 reform did not envisage an amnesty of illegal immigrants. Therefore, the democratizing effects of the 1996 immigration reform were unintended. For legal immigrants who were not yet citizens, naturalization became the only secure way of retaining access to government benefits and of gaining the vote to engage politically and defend their interests. As a consequence, the reaction of legal Mexican migrants was "a rush toward United States citizenship" (Durand, Massey, and Parrado 1999: 532). Whereas Mexicans' citizenship applications averaged between two and three hundred thousand annually before 1994, thereafter, annual applications jumped to just under one million (532). This change also had an extra-territorial dimension. In response to the U.S. anti-immigrant legislation of 1996, Mexico's federal congress, executive, and state legislatures amended the Mexican constitution to permit dual nationality. With this fundamental change, the Mexican government sought explicitly to enable Mexican migrants in the United States to gain political rights to defend their interests (533).

However, the 1996 immigration and welfare reforms also included measures that hindered democratization. Welfare reform curtailed the social rights of recent legal immigrants. Stronger immigration enforcement and the simplification of deportation procedures for illegal immigrants, also part of the 1996 immigration reform, shrank illegal immigrants' already slim civil rights by eliminating their recourse to appeal authorities' deportation decisions.

In sum, electoral competition, one of the most basic state-society linkages in liberal democracies, has contributed to the scattering of Latino subgroups in the United States onto different trajectories. Politicians seeking election or reelection have repeatedly used the issue of immigration to rally their supporters. The 1986 and 1996 overhauls of the country's immigration system were carried out on the back of impending midterm (1986) and general elections (1996). Given the free play that characterizes electoral politics in the United States, the end result of both reforms was a combination of measures, some that enabled and others that hindered democratization for Latinos. Rather than U.S. state institutions and their leading agents producing legal outcomes that have oscillated between enabling and hindering democratization, the 1986 and 1996 immigration reforms show that they included, at one and the same time, enabling and hindering democratizing measures for different Latino subgroups.

Latinos and U.S. Refugee Policy during the Cold War

The last state-society linkage explored in this chapter echoes the issue of the international dimension of democratization set out in chapter 1. The idea that the state is the nexus between domestic and international pressures in favor of or against democracy/democratization is a powerful one when we study the consequences of American refugee policy for Latinos of different nationalities during the Cold War.

From 1965 to 1980, the law that regulated the cases of individuals seeking refugee status in the United States had a strong ideological bias, which gave preference, through an established annual quota, to individuals fleeing from communist countries. Ninety-five percent of asylum grants went to claimants of this type during these twenty-five years (Harvard Law Review 1985: 458). The strongest example of U.S. refugee policy furthering democratization for a Latino subgroup is the privileged treatment given to the first wave of Cubans who fled the island after the Cuban Revolution in 1959. Successive federal governments tried to ensure that the Cuban community in Miami became an example

of success that could be marketed to other nations under communist rule, by projecting the image that living in the "free world" led to individual freedom and prosperity. Federal, state, and local governments used democratization to help bring about this outcome, by quickly granting civil, political, and social rights to newly arrived Cubans. First, winning refugee status conferred automatic legal presence for the Cuban exiles. Legal presence meant they could exercise basic civil rights. Second, legal presence allowed Cubans to undertake naturalization, after five years of residency. Once naturalized, Cubans started exercising political rights and emerged as, in the words of Louis Perez Jr. (1990: 255), "a voting bloc of formidable proportions." By the 1980s, the Cuban electorate in Florida had become pivotal in county, city, state assembly, and federal congressional electoral contests. Third, the federal government also furthered the success of the Cuban exile community by granting its members social rights early on. The government established the Cuban Refugee Program, which disbursed $730 million between 1961 and 1971 for the health, education, and welfare of Cubans. Agencies of the three levels of government provided Cubans with a wide variety of services, ranging from English-language courses to low-interest college loans and job-training programs; from basic health care and care for unaccompanied children, to business credit and loans, to cash allotments for Cuban families (Perez 1990: 254). Even though the first wave of Cuban exiles was made up of mainly upper- and middle-class individuals and households, who brought with them some of their assets, skills, and social capital, at least part of the politico-economic success of the Cuban community in Florida was the result of positive discrimination by U.S. state institutions and agents in the context of the Cold War. Democratizing conditions for this exile community, that is, gave its members the speedy exercise of civil, political, and social rights and transformed it into the most successful national subgroup of Latinos in the United States to date.

A more recent case of U.S. refugee policy toward Latinos in the context of the Cold War illustrates the differential treatment of Central American refugees of the 1980s civil wars. Even though President Carter signed the Refugee Act of 1980 to remove the ideological bias of U.S. refugee policy, the coming to power of Ronald Reagan ensured that more than 95 percent of asylum grants continued to go to refugees from communist countries (Harvard Law Review 1985: 459). Financial and military support by the Reagan administration for the military regimes of neighboring Guatemala and El Salvador resulted in a similar exodus of war refugees. The repressive policies of these military regimes resulted

in the deaths of approximately 70,000 in El Salvador (United Nations 1993) and more than 195,000 in Guatemala (Peace Brigades International 1999). To comply with the principle of ideological neutrality mandated by the 1980 Refugee Act, the Reagan government claimed that because refugees from these countries passed through Mexico on their way to the United States, they were economic rather than political migrants (Harvard Law Review 1985: 459; W. Stanley 1987; Tichenor 1994).

From the perspective of democratization, the end result of this differential treatment was that refugees granted legal status soon after their arrival, such as Nicaraguans, could more quickly start exercising civil rights and become eligible for naturalization and its concomitant, the exercise of political and social rights. In contrast, Salvadorans and Guatemalans who were denied refugee status were either deported—and thus many of them sent back to their deaths—or, for those who were not caught, ended up swelling the ranks of the illegal immigrant population, devoid of any rights.

A subsequent twist to this case illustrates the way the U.S. democratic system can lead to modification of what can be perceived as an unjust outcome in an open society. Advocacy groups such as the Catholic Church, the Sanctuary movement, civil rights groups, and even Salvadoran advocacy groups made up of individuals who benefited from the 1986 amnesty under IRCA, continued to oppose U.S. policy in Central America (J. González 2000: 140–42). This pressure resulted in two important outcomes at key U.S. political institutions: in 1990, Congress passed a new refugee status called Temporary Protected Status, which in effect suspended the deportation of Salvadorans, and later Guatemalans and Nicaraguans, who had not been granted refugee status (Tichenor 1994: 337, n. 19). And in the same year, in *American Baptist Churches v. Thornburgh*,[6] a U.S. district court struck down as discriminatory the federal government's policy of deporting Salvadorans and Guatemalans (U.S. Citizenship and Immigration Services 2006). As Juan González (2000: 143) asserts, the ruling "overturned 100,000 cases in which the US Citizenship and Immigration Service had denied asylum requests, the largest number of federal judicial decisions ever negated by a single court case."

What these events show is that once they were in the United States, individuals from vulnerable groups devoid of rights could enlist the support of advocacy groups, made up of U.S. citizens who campaigned and put pressure on the political system to change the status quo. Thus, even in cases where state institutions and agents have pursued a policy path that hinders democratization by

restricting rights for certain categories of people (i.e., genuine political refugees), the openness of the U.S. democratic system still provides avenues for self-correction and a policy switch, through the basic freedoms of expression, assembly, and petition that U.S. citizens enjoy.

Conclusion

State institutions and agents have been fundamental factors in the inclusion/exclusion of Latinos in U.S. society. Domestically, the framework that regulates the legal status and citizenship of individuals, as well as U.S. elections, has contributed to scattering Latino subgroups into different inclusion/exclusion tracks. Internationally, U.S. foreign policy (i.e., refugee policy) during the Cold War also contributed to such scattering. As a consequence, democratization means different things for different Latino subgroups.

In contrast to previous categories of people who confronted democratization challenges in the United States—such as African Americans and women, who faced a similar challenge to gain full inclusion (civil and political rights for African Americans and the franchise for women)—no similar challenge exists for Latinos as a whole. Some Latinos have gained full inclusion through naturalization or by birthright. Others are awaiting citizenship eligibility and can look forward to the promise of full inclusion sometime in the future. Another growing subgroup, however—illegal immigrants—remains in the shadows of the U.S. legal system, and its members live from day to day in legal limbo.

The goalposts of inclusion/exclusion in the United States are not fixed. As such, U.S. democratization remains a work in progress, a collective project from which the country draws some of its basic strengths and problems. This chapter has shown evidence to support the contention that U.S. state institutions have been and will remain among the most powerful factors in defining where the goalposts of inclusion/exclusion for Latinos lie at any point in time.

In addition, the evidence presented here points toward a variegated series of answers to some of the conceptual questions set out in chapter 1 of this volume. First, starting with the most basic of state-society linkages—legal status and citizenship—the evidence for Latinos shows that one subgroup fits comfortably into the classic American liberal narrative of inclusion through full individual rights; another subgroup remains in the queue for full inclusion, but the goalposts for this group continue to move (as in the 1996 immigration and welfare reforms restricting the social rights of legal U.S. residents who remained non-

citizens), suggesting a narrative closer to Rogers Smith's (1997) "multiple traditions" of liberal and illiberal conflict in U.S. political culture; and a last subgroup, illegal immigrants, remains in a state of legal uncertainty. Its fate resembles Ngai's (2004) narrative of "impossible subjects."

Second, the analysis of the state-society linkage anchored in elections and their impact on immigration policy has shown that U.S. state institutions and their leading agents, rather than producing legal outcomes that have oscillated between enabling and hindering democratization for Latinos, have included both enabling and hindering democratizing measures at the same time, such as amnesties coupled with tougher immigration enforcement.

Lastly, on the international front, the evidence of U.S. refugee policy in the context of the Cold War suggests that positive discrimination for the early wave of Cuban exiles helped them become the most successful Latino group to date. In turn, differential treatment of Central American refugees, depending on the regime from which they were fleeing—Nicaraguans fleeing a country ruled by Sandinistas versus Salvadorans and Guatemalans fleeing countries ruled by right-wing, military regimes that were allies of the Reagan and George H. W. Bush administrations in the fight against communism—led to early inclusion for the former and exclusion for the latter. However, given the freedoms of expression, association, and petition enjoyed by U.S. citizens, advocacy groups' pressure against U.S. policy in Central America eventually forced politicians to shift the goalposts of inclusion/exclusion by adding a new immigration category, Temporary Protected Status, which froze the deportation, or the slippage into the harsh reality of illegality, of hundreds of thousands of Central Americans.

Democratization in the United States means different things for different Latino subgroups. Full inclusion is a reality for some, a promise for others, and almost an impossibility for yet others. However, all Latinos who decided to come to the United States seem to share one deep, if ambiguous and elusive, dream: el sueño Americano.

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PART 2

Constitutionalism & Democratization

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CHAPTER FIVE

Gender and Democracy in the American Constitutional Order

Gretchen Ritter

American women have long struggled for recognition as full rights-bearing citizens. At the time of the Founding, it was uncertain whether women were included in the constitutional community of "We, the People," and this uncertainty has continued for much of the nation's history. In the antebellum era, women's place in the American political community was conceived of relationally. As wives and daughters, native-born white women were represented in public affairs through their husbands and fathers. They had no independent civic status. The civic membership of nonwhite women—African Americans, Native Americans, and members of various immigrant groups—whose husbands and fathers held, at best, ambiguous membership status in the national community, was even more tenuous. Over the course of American history, women gradually came to be seen as rights-bearing individuals. This development occurred in three principal waves: the struggle, parallel with that of African Americans, during Reconstruction; the successful movement for the establishment of women's suffrage; and the late-twentieth-century struggle for legal autonomy and equal political status.

Consideration of the changing place of women in the American constitutional order illuminates the process of democratization in the United States. The constitutional order is defined here as including "the role of the Constitution, constitutional discourse and constitutional law in structuring the polity institutionally and socially" (Ritter 2006: 7). From a democratization perspective, the American constitutional order has evolved over time, as the accepted constitutional understandings of liberty, equality, and civic inclusion have changed

through political struggle and legal interpretation (Ackerman 1998). Building on my earlier book (Ritter 2006), I argue here that constitutional development in the United States should be understood as an ongoing struggle over the terms of membership in "We, the People." That struggle is anchored by competing concerns over individual liberty and social ordering. Most of us recognize that the constitutional order secures a polity that is protective of individual liberty. Less attention is paid to the way in which constitutional law rewards and regulates social roles in the interest of creating and maintaining a social order that supports a stable political community and virtuous citizenry. This tension between individual liberty and social ordering is expressed not only in struggles over rights but also in changing constitutional governance of community relations in the areas of race relations, education, religion in public life, public health, immigration, labor relations, and family and marital law. As this chapter illustrates, the constitutional order has not only tolerated such social regulation within the states, it has also preserved or prohibited particular social relations as conducive to or incongruent with American democracy. In this way, the constitutional order helps to socially order the nation by shaping the terms of civic membership. Civic membership refers to "the legal and political status of all persons under American political authority." Citizens are covered by this term, but so are "slaves, wards (e.g., Native Americans), permanent residents, immigrants in the process of naturalizing, colonized subjects (e.g., the populations that fell under US rule following the Spanish American War), and women who have lost their US citizenship through marriage to foreign nationals, among others" (Ritter 2006: 6). Our social roles are tied to our civic roles—and our constitutional structure works to uphold and protect social arrangements that are conducive to a well-ordered democracy.

From a democratization perspective, this analysis illuminates several issues and arguments that emerge elsewhere in this volume. First, highlighting the role of social-ordering concerns in American constitutional development gives new purchase to the argument that democratization is an ongoing process that does not end when certain social groups are given specific rights. Looking at constitutional development as an enduring struggle over the terms of membership in the community of "the People" suggests that democratization is never static or finished even within an "immanent democracy" (see Laurence Whitehead's section in chapter 2) such as the United States, and that there will always be new issues to consider in the relationship between state and society. Second, rather than focus narrowly on the achievement of political rights as a measure

of democratization, this chapter calls for a broader approach that uses as its starting point the changing terms of civic membership for various social groups. In keeping with one of this volume's key themes, this perspective calls particular attention not just to the enumeration of rights but to the state's role in defining and enforcing rights, a role in which it often finds itself in tension with a prior constitutionally shaped social order. Third, by shifting from electoral politics and voting rights to constitutional politics and the judiciary, we are able to see how the courts behave as an arena for civic engagement and political expression as well as a primary state vehicle for the expansion and contraction of democratic rights. Indeed, many of the democratic gains in the United States over the last half-century have happened within the realm of judicial politics. Fourth, the attention given in this chapter to the changing civic status of women demonstrates that arguments about democratization that draw upon an analysis of racial politics may be usefully expanded to other groups. Finally, like Mendelberg's, Kryder's, and Lieberman's contributions (chapters 7, 8, and 9), this chapter emphasizes the disruptive nature of democratization. From a social-ordering perspective, extending democratic rights implies a change in social relations within the community of people governed by the American constitutional order.

What follows is an elaboration of the theoretical framework that informs this essay, followed by two brief sketches of the way in which debates over women's citizenship have contributed to constitutional development and democratization in the United States. The first sketch examines the effect of the Nineteenth Amendment on women's citizenship and uses this as an occasion to consider the relationship between the vote and citizenship in a constitutional democracy. Jumping ahead to the late twentieth century, the second sketch analyzes the liberal feminist effort to obtain full liberal citizenship for women in the 1960s and 1970s. My focus in that section is particularly on what the use of privacy doctrine reveals about the limits of egalitarianism and liberal citizenship for women. The chapter concludes with some brief reflections on what has been learned from this analysis regarding democratization in America.

Constitutional Politics and Social Ordering

Our government's founding document invokes a sense of political community. It is "the People" of the United States who serve as the ultimate source of political authority for the federal government (Morgan 1988). The government called into being by the Constitution is there to protect the well-being of that

community and to advance its welfare. Yet the terms of membership within the community of "the People" have evolved over the course of American history through struggles over political inclusion and legal rights. As Akhil Reed Amar (1998) argues in his book on the Bill of Rights, the original constitutional order relied on a presumption of community governance that was represented in provisions protecting intermediary associations—such as churches and civic clubs. The "constitutional order" of the United States refers to the role of the Constitution, constitutional discourse,[1] and constitutional law in structuring the polity both institutionally and socially. At the interface between the polity and society, by recognizing and rewarding certain social roles and relationships, the constitutional order helps to constitute society itself. The democratic political community envisioned by the constitutional structure was neither inclusive nor egalitarian. At a primary level, community governance included an ideal of family governance, in which heads of households (or masters) held authority over wives, slaves, children, wards, and servants, and were rewarded, in turn, with the privileges or duties of voting, serving on juries, and serving in the militia. The original constitutional order implicitly endorsed a more limited vision of the democratic political community and protected this more constrained vision through its reliance on federalism and the ability of states to restrict political rights.

Nor is this social-ordering aspect of the constitutional order unique to the United States. It may be that all constitutions either presume or mandate a social structure that is seen as consistent with democratic self-governance. Some constitutional structures do this explicitly, such as when they enshrine specific religious traditions into their constitutions or when they provide a special status for the family as a cornerstone of democratic society. Within liberal political structures, where the emphasis is on individual rights in the public realm, the social-ordering function of the constitutional order may be less visible and more implicit than explicit. Nonetheless, even within liberal polities, challenges to the traditional social foundations of a democracy (e.g., the emergence of new religions, challenges to traditional gender roles or race relations, or a large influx of immigrants from other cultures) make explicit the role of the constitutional order in ordering social relations.

The text of the U.S. Constitution sets out general social-ordering principles (popular sovereignty, principles of personal liberty, etc.) and only occasionally provides explicit terms for the Constitution as social design—such as in the Three-Fifths Clause, the Voting Amendments (Fifteenth, Nineteenth, Twenty-Fourth, and Twenty-Sixth), and the Prohibition Amendment (Eighteenth). As

suggested below, the original Bill of Rights contains several provisions that presume and endorse a vision of community governance in which women are subordinate. This may explain why the Bill has rarely served as a source of rights-claiming for women. The elaboration of the constitutional order as an instrument of social design has occurred in the larger realm of constitutional politics: in court rulings, congressional debates, presidential declarations, and social-movement pronouncements on the meaning of the Constitution. Sometimes these elaborations become authoritative and are institutionalized—meaning that they shape the terms of civic membership for the broader community—and sometimes they do not.

Struggles over the meaning of the Constitution have been struggles over the meaning of freedom. "The meaning of freedom has been constructed not only in Congressional debates and political treatises but on plantations and picket lines, in parlors and bedrooms" (Foner 1999: 21). Similarly, Hartog (1987: 1014) offers a vision of American political history as a series of struggles over constitutional rights and claims to political inclusion that is inspired by a "faith that the received meanings of constitutional texts will change when confronted by the legitimate aspirations of autonomous citizens and groups." Yet as the meaning of freedom has been refashioned, so, in tandem, have our notions of social order as a foundation for democracy been reshaped. As Justice Harlan wrote in his famous dissent in *Poe v. Ullman*,[2] "through the course of this Court's decisions it has represented the balance which our Nation, built upon postulates of respect for the liberty of the individual, has struck between that liberty and the demands of organized society" (*Poe v. Ullman* 1961: 542).

While it is now seen as the source of the United States' rights-conscious culture, historically, the Bill of Rights made little difference to women's rights advocates in the nineteenth or twentieth centuries. According to Mary Becker (1992: 454), "the Bill of Rights does less to solve the problems of women and nonpropertied men than to solve the problems of men of property, especially white men of property." Imagining the Bill as conducive to the formation of civil society, the social order constructed under the Bill during the first century and a half of constitutional history was one that presumed male authority within the home. As masters of their households, it was men who were protected by those amendments that shielded the home, including the Third, Fourth, and Fifth Amendments. Violations against the "natural" dependents of these men (their wives, children, servants, or slaves) were seen as grievances against their masters. Protections of public rights were protections of the democratic citizenry, an in-

dependent body of men with the capacity to engage in civic life, a capacity that was demonstrated, in part, through their roles as property owners and heads of households in the civil society. Viewed in this way, it may help us understand why the women's rights movement of the nineteenth and early twentieth centuries became so focused on the vote as a way of gaining rights for women. Obtaining the vote meant coming to be seen as public persons, entitled to the protections of the First, Second, and Fifth through Tenth Amendments. Until women were seen primarily as public persons rather than as private dependents, neither the protections of the Bill of Rights, nor those of the Fourteenth Amendment, were considered applicable to them. As Judith Resnik (2006) writes, a key mechanism for managing this rights differential (for women, as well as other previously subordinate groups) was federalism (see also Ritter 2006).

What emerged after the Civil War was a shift to a rights-conscious culture in which the federal government was seen as the protector of individuals. "The long contest over slavery did more than any other cause to stimulate the development of an alternative, rights conscious, interpretation of the federal constitution. Still, a modern American understanding of constitutional rights could only become embedded in the Constitution after the Civil War and emancipation" (Hartog 1987: 1017). After the war, state governments came to be seen as the source of potentially abusive authority, and the federal government was celebrated as the defender of individual rights, including the rights of unpopular minorities when they were threatened by overbearing majorities (A. Amar 1998). The meaning of the Bill was altered by the Reconstruction Amendments (the Thirteenth, Fourteenth, and Fifteenth Amendments). Today, the Reconstruction Amendments are seen as extending and securing the Bill. "Together with the Civil War Amendments, outlawing slavery and involuntary servitude and insuring all citizens equal protection of the laws and due process of law, the Bill of Rights stands as a constant guardian of individual liberty" (Brennan 1989: 425).

During the first hundred years or so of constitutional experience, preference for particular social arrangements was clearly stated by constitutional actors; in time, over the course of the twentieth century, the terms of articulation became more remote. Looking across American constitutional history, one can see a shift from the articulation of express social-ordering concerns to a more neutral, liberal language that stresses individualism, achievement, and choice. Governing authorities once spoke in terms of women's perpetual dependence (*Muller v. Oregon* 1908: 421), "the degraded condition of" an "unhappy race" (*Dred Scott v. Sandford* 1857: 409), women's natural entitlement to "special considerations"

(*Breedlove v. Suttles* 1937: 282), or "a race so different" it was excluded from citizenship (*Plessy v. Ferguson* 1896: 561). Later, their language evolved to include references to a group's failure to assimilate (*Hirabyashi v. U.S.* 1943: 96), the "usages, customs and traditions" that justified segregation (*Plessy v. Ferguson* 1896: 550), privacy as the value that protected domestic life (*Griswold v. Connecticut* 1965), and the "attitudes, interests and beliefs" that prevented women's economic advancement (*EEOC v. Sears, Roebuck and Co.* 1988: 321). Sometimes the shift to a language of liberalism was accompanied by an expansion in rights and political power for subordinate groups; sometimes it represented a recoded justification for social hierarchy. Elsewhere (Ritter 2006), I trace the changes in the way that social-ordering concerns have been constitutionally articulated over time and consider how these changes have affected the terms of civic membership.

Women present a difficult problem for managing the tension between individualism and social order. They were necessarily a part of the political community, given that this was a living, expanding community in which women bore and raised the next generation of citizens. But initially, women were members of that community only indirectly, as shadows to men. What this also suggests is the double meaning that has been found in the phrase "We, the People." In one sense "the People" constituted a community of equals, who were also seen as the rights-bearing individuals of the Declaration of Independence. In another sense, "the People" included the unequal dependents of rights-bearing individuals, who together constituted the nation as a social body. Even today, in our debates over religion in public life, abortion, privacy, gay marriage, and work-family balance, we see that women and family relations remain a key site of contest in our ongoing efforts to balance liberty with an ordered community.

The Nineteenth Amendment

After a seventy-five-year struggle for the right of suffrage, the Nineteenth Amendment to the Constitution granted American women the right to vote in 1920. The campaign for the vote was broadly based and provoked a rich public debate. At the time the amendment passed, women were perhaps the most organized and effective political force (outside the regular parties) in American society. Yet this tremendous change in the constitution of the polity left surprisingly little imprint on American politics. The Nineteenth Amendment had only a limited impact on the civic status of women. Further, the absorption of this new bloc of voters did little to alter the organization of electoral politics or the

party system. Nor did this amendment change the way in which the Constitution was understood or interpreted. In many ways, the Nineteenth Amendment was one of the great non-events in American political history. This section presents an analysis of the reasons for the limited impact of the Nineteenth Amendment and what happened to women's citizenship and civic standing after they were incorporated as voters in 1920.

The suffrage movement in the United States was large and diverse and stretched over many decades. It encompassed an array of views about the meaning of the vote and its relationship to citizenship (Kraditor 1981). There were, however, two strong themes that emerged repeatedly in discussions of the vote. One concerned the instrumental value of the vote, and the other concerned the role of the vote in conferring civic status. The founding document of the movement, the Declaration of Sentiments (passed by a convention held in Seneca Falls, New York, in 1848) offered a paraphrase of the Declaration of Independence's invocation of natural rights:

> We hold these truths self-evident: that all men and women are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights governments are instituted, deriving their just powers from the governed. (Stanton, Anthony, and Gage 1881: 70)

Further on, the declaration refers more specifically to women's exclusion from governance: "Now, in view of this entire disenfranchisement of one-half of the people . . . we insist that they have immediate admission to all the rights and privileges which belong to them as citizens of the United States" (71). Among the resolutions passed by the convention was one that called for women "to secure to themselves their sacred right to the elective franchise" (72). These were rights that belonged to women as citizens and, more fundamentally, as human beings in a democracy—as equal individuals.

The suffragists believed strongly in the connection between voting and civic status. Voting was so central to citizenship for the suffragists as to be definitional. Explaining why working women supported suffrage, Elizabeth Schauss said at the 1910 convention of the National American Woman Suffrage Association (NAWSA), "Although she gives the same quality and the same amount of work yet she cannot command the same wage, and why? Simply because she is not a recognized citizen by virtue of the ballot" (Harper 1922: 301–2). Women

could not act as citizens until they could vote. Women would not be recognized as citizens until they had the right to vote. The reason that the women's rights movement focused on the franchise, then, was not just instrumental, it was also normative. Women wanted the vote not just because of how they might use it but because, with it, they would be citizens in the full sense of the term.

Further, many white suffragists believed there were segments of the population that were not qualified to participate in the political process. They resented that their class (the class of educated white women) was excluded from the franchise, when others, including immigrant and African American men, were given the franchise. (It should be noted that African American women were also involved in the suffrage campaigns. But the leaders of the national organizations fairly consistently downplayed their contributions and excluded them from national conventions in the interest of obtaining the support of white Southerners.) These members of the suffrage movement typically favored literacy qualifications for voting. Mrs. Desha Breckinridge spoke on this subject at the 1911 NAWSA convention in Louisville, Kentucky. "If the literate women of the South were enfranchised it would insure an immense preponderance of the Anglo-Saxon over the African, of the literate over the illiterate, and would make legitimate limitation of the male suffrage to the literate easily possible" (Harper 1922: 330). White suffragists did not object to ideas of political order in determining rights of citizenship. Rather, many of them simply felt that women's natural place in that order (a place that would have positioned white women ahead of nonwhite men) had not been properly recognized or rewarded. The issue for these women, then, was not so much that suffrage made them voting citizens but that having the vote made them citizens.

After the Nineteenth Amendment was secured, activist women made it clear that the value of the vote lay in its effect on women's political status and self-esteem. Quite frequently, both men and women equated women's obtaining the vote with their becoming citizens. This new citizenship status separated women from other, less desirable social classes. Asking whether women were disappointed with politics in 1923, Carrie Chapman Catt (1923) wrote, "I have heard of no woman who is disappointed enough to want to go back with the paupers, insane and criminals who compose the disenfranchised classes." In a series of interviews in *The Woman Citizen* in 1924, women activists evaluated the meaning of suffrage for women and for the nation. In one, Winifred Lenihan suggested that suffrage indicated changes that had already taken place. "Woman's

suffrage is not a cause of anything . . . It is an effect, the outcome of a great change in women's status that has altered her attitude toward men, toward work, toward life. It is evidence of how far womankind has progressed." Several interviews praised the educational effect of women's suffrage. Others spoke of suffrage in terms of recognition and justice.[3] Overall, these women made clear that regardless of how it was used, or whether it was used, the vote had changed their standing as citizens.[4]

What was the impact of the Nineteenth Amendment on the American constitutional order? At first it seems that the Nineteenth Amendment left no trace within constitutional law. Only three U.S. Supreme Court cases from the early 1920s comment on the amendment. Two of these cases deal with the legality of the amendment. The third case, *Adkins v. Children's Hospital* (1923), addresses the amendment in passing as it deals mainly with the exercise of state authority under the police power and the right of freedom of contract under the Fifth Amendment. Nevertheless, this third case may be the most pertinent to understanding the impact of the Nineteenth Amendment on women's citizenship. In addition to these federal cases, there were state cases that addressed whether the Nineteenth Amendment made women eligible for jury service and public office. Other cases, particularly those concerning the rights of married women, also addressed the normative influence of the Nineteenth Amendment on women's citizenship (Ritter 2006, chap. 3).

In 1922, the Supreme Court ruled on the legality of the Nineteenth Amendment in *Leser v. Garnett*. The same day, the Court denied another challenge to the amendment in *Fairchild v. Hughes*, finding that the plaintiff lacked standing. The argument of the plaintiffs in *Leser v. Garnett* was that the Nineteenth Amendment was illegal for several reasons, two of which the Court addressed. The first complaint was "that so great an addition to the electorate, if made without the state's consent, destroys its autonomy as a political body" (*Leser v. Garnett* 1922: 136). The Court answered this by noting that "this amendment is in character and phraseology precisely similar to the Fifteenth" (136). So, because the Fifteenth Amendment was valid, so was the Nineteenth. The second argument was that the amendment had been improperly ratified by the states, especially by Tennessee and West Virginia. This the Court answered by pointing out that other states had since ratified the amendment, so even without Tennessee and West Virginia it would still be valid (137).

Two aspects of the first argument are particularly significant. The first has to do with the Court's recognition of the parallel between the Nineteenth and Fif-

teenth Amendments. This raises questions about the constitutional effect of the two amendments. Did each amendment provide for political rights in the same way? Did the Nineteenth Amendment recognize women's position as a historically subject group in the same way that the Fifteenth Amendment did for African Americans? Finally, is there an implied relationship between the Nineteenth and Fourteenth Amendments for women in the same way that there is between the Fourteenth and Fifteenth Amendments for African Americans? The second aspect of the *Leser v. Garnett* opinion that merits attention concerns the state sovereignty argument that the Court ultimately rejected. The state that brought this case was Maryland, which, along with several other states, rejected the women's suffrage amendment. In the South, "state sovereignty" was the terminology used to defend racial segregation from federal intervention. Many southern states were concerned that the Nineteenth Amendment would enable African American women to vote (O'Neal 1920). Both the Fifteenth Amendment parallel and the state sovereignty argument point to the role of race in constitutional considerations of women's suffrage.

In an article on the constitutional history of jury service, Vikram Amar (1995) argues that the constitutional amendments that protect the right to vote (the Fifteenth, Nineteenth, Twenty-Fourth, and Twenty-Sixth) should be regarded as protecting the broader political rights of citizens. Amar's arguments help to sharpen our consideration of the parallels between the Nineteenth and Fifteenth Amendments. He contends that the authors of the Fifteenth Amendment understood the distinctions between civil, political, and social rights of citizenship and intended that the right to vote should subsume other political rights such as the right to serve on a jury or hold elective office. Amar also shows that the suffragists associated the right to vote with the right to serve on juries. Yet the federal courts failed to connect voting and jury service for women in the way that they connected them for African Americans in *Neal v. Delaware* (1880). Further, the state courts were mixed on the question of whether the Nineteenth Amendment implied a right to hold elective office. Initially, at least, it seems that the Fifteenth Amendment was given more constitutional weight with regard to the broader political rights of citizens than was the Nineteenth Amendment. In practice, however, neither amendment provided equal political status for African Americans or women as citizens.

Nor were women and African Americans recognized as subject groups in the same way. Coverture was not considered comparable to slavery, and while the distinctions between the sexes and the races were still juridically understood to

be "natural" in many instances, the social subordination of women took quite a different form from the social subordination of African Americans (Siegel 1997). In the nineteenth century, women were not thought to be covered by the Equal Protection Clause of the Fourteenth Amendment in the same way that African Americans were (see, e.g., *Minor v. Happersett* 1874; *Bradwell v. Illinois* 1873; *Strauder v. West Virginia* 1880). Indeed, it is only in recent years that sex classifications in public policy have come to be regarded as constitutionally suspect. Although the Fifteenth Amendment failed to build fully on the Fourteenth Amendment to create equal rights for African Americans, this is even more the case for the effect of the Fourteenth and Nineteenth Amendments on women's rights. As Justice Ruth Bader Ginsburg commented in an interview in 1994:

> There was always a view that once the Nineteenth Amendment was passed and it made women full citizens, that was in effect an Equal Rights Amendment . . . Many people thought that you could put the Fourteenth Amendment together with the Nineteenth Amendment and that was essentially the Equal Rights Amendment. But it didn't happen. (Ginsburg 1994: 452)

Rather than interpreting the Nineteenth Amendment as having completed women's citizenship—as giving them full political rights on top of the civil rights recognized in the Fourteenth Amendment—the Supreme Court retained a parsed and narrow view of women's citizenship.

It might have been otherwise, as suggested by the Court's ruling in *Adkins*. At issue in this case was the constitutionality of the District of Columbia's minimum wage law for women. In overturning the law, the Supreme Court partially reversed a series of cases that upheld protective labor legislation for women. These prior cases (particularly *Muller v. Oregon* 1908) relied on multiple theories of gender difference in justifying the distinctive legal treatment of working women. One theory was that women were naturally or biologically weaker than men. Another view emphasized women's structural inequality; because women were legally and economically discriminated against, it made it harder for them to compete in the marketplace. The third theory of gender difference focused on women's maternal role and the burdens—both physical and social—that weighed on working mothers.

The Court in *Adkins* chose to consider only one of these theories of gender difference in explaining its rejection of a minimum wage law that applied only to women. Noting the changes in women's political and legal status, the majority wrote:

> In view of the great—not to say revolutionary—changes which have taken place . . . in the contractual, political, and civil status of women, culminating in the Nineteenth Amendment . . . we cannot accept the doctrine that women of mature age, *sui juris*, require or may be subjected to restrictions upon their liberty of contract which could not lawfully be imposed in the case of men under similar circumstances. (*Adkins v. Children's Hospital* 1932: 553)

Here the Court viewed the Nineteenth Amendment as the culmination of changes in the "contractual, political, and civil status of women." This standpoint was precisely what the suffragists had hoped to achieve with the Nineteenth Amendment—a signal change in women's civic membership status that completed the gradual changes made over previous decades. But this view turned out to be more ideal than real. The broader constitutional effect of the Nineteenth Amendment at the federal level was limited to this case, a case in which women were found entitled to the same negative freedom-of-contract rights as men (Gillman 1993). Even in contemporary commentaries on the case, there were numerous suggestions about what the Supreme Court missed in this decision.

Most of the critical commentaries, like Justice Holmes's dissenting opinion in *Adkins*, accused the majority of ignoring the physical differences between the sexes. Because of these differences, disparate legal treatment was constitutionally justified. (Holmes wrote: "It will need more than the Nineteenth Amendment to convince me that there are no differences between men and women, or that legislation cannot take those differences into account" [*Adkins v. Children's Hospital* 1923: 569–70]). Beyond these exclamations of women's physical weakness, a few law review notes offered a more nuanced view of what was wrong with the majority opinion. One writer in the *California Law Review* suggested that the justices had overlooked women's economic inequality.

> Will the learned justices of the majority be pardoned for overlooking the cardinal fact that minimum wage legislation is not and never was predicated upon the political, contractual or civil inequalities of women? It is predicated rather upon the evils to society, resulting from the exploitation of women in industry, who *as a class labor under a tremendous economic handicap.* The problem is one of economic fact, not of political, contractual or civil status. ("Constitutional Law" 1923: 353)

Whatever changes had taken place in women's civil and political status had not remedied their economic subordination. Some legal commentators suggested that women still did not have the status of a *sui juris* in the same way that men

did ("Constitutionality of Minimum Wage" 1923). Married women, in particular, were not legally regarded as independent persons with the same civil rights and capacities as men. Under such circumstances, as the critics of the Equal Rights Amendment later argued, to impose a procedural standard of equality on women might have the effect of increasing substantive inequality between men and women.

Seventeen years after adoption of the Nineteenth Amendment, the Supreme Court handed down a ruling in *Breedlove v. Suttles* (1937) upholding a Georgia poll tax law that provided an exemption on back taxes for women. The case was brought by a white man who claimed that the law was "repugnant to the equal protection clause and the privileges and immunities clause of the Fourteenth Amendment and to the Nineteenth Amendment." The Court disagreed. The Fourteenth Amendment "does not require absolute equality," wrote the Court, and the Nineteenth Amendment had nothing to do with a state's right to tax its citizens. Nor was voting protected under the privileges and immunities clause of the Fourteenth Amendment. Instead, the Court offered this endorsement of the logic behind Georgia's law:

> The tax being upon persons, women may be exempted on the basis of special considerations to which they are naturally entitled . . . The laws of Georgia declare the husband to be the head of the family and the wife to be subject to him. To subject her to the levy would be to add to his burden. (*Breedlove v. Suttles* 1937: 282)

Nearly two decades after adoption of the Nineteenth Amendment, some question remained as to whether women were legal persons. What was clear was that because of their "natural" differences, and their positions as wives and mothers, they were entitled to special consideration. In support of this position, the Court cited *Muller v. Oregon*, the 1908 case in which women were originally exempted from the *Lochner* freedom-of-contract regime. Further, for both men and women, the norms of coverture, if not the laws, were still used to define their civic status, at least at the state level. The Nineteenth Amendment had failed to displace a constitutional order in which the privileges and immunities of national citizenship were quite limited and in which political rights were separate and secondary to civil rights.

Second-Wave Feminism

Beginning with *Brown v. Board of Education* in 1954, equality became the mantra of the politically unrecognized in the United States and the constitutional

means by which groups sought full incorporation into the American civic order. The balance was shifting from a social order in which each group had its place to a public order in which all were recognized as rights-bearing individuals. Inspired by the civil rights revolution, the 1960s and 1970s were a time when women's civic membership also expanded under the rubric of equality. The gains were legislative and judicial. Most of the legislative gains were aimed at increasing economic opportunity for women. These included the Equal Pay Act of 1963, inclusion under Title VII of the Civil Rights Act of 1964, and protection from employment discrimination related to pregnancy under the Pregnancy Discrimination Act of 1978. Gains were also made in the area of education. Women's educational opportunities were greatly expanded by Title IX of the Educational Amendments (to the Civil Rights Act) of 1972. Finally, in an effort to implement gender equality as a broad constitutional principle, Congress passed the Equal Rights Amendment (ERA) in 1972. When the amendment had not yet been secured by three-quarters of the states several years later, Congress voted in 1978 to extend the deadline for adopting the ERA a few more years. The movement to expand women's civic membership through equality was neither steady nor coherent, yet important gains were made during the 1960s and 1970s. When the Reagan administration took office in 1981 and the ERA failed adoption by the 1982 deadline, the era in which women's civic membership was expanded through equality measures stalled and lost momentum.

The courts were slower in responding to the calls for gender equality. It was not until the 1970s that the Equal Protection Clause of the Fourteenth Amendment was applied to sex discrimination. Before that time, the same court that was declaring itself intolerant of racial discrimination viewed sex classifications in law as rational and benign. Thus in 1961, the Supreme Court found that jury selection procedures that resulted in the virtual exclusion of women from petit juries were reasonable because "woman is still regarded as the center of home and family life" and therefore she may be "relieved of the civic duty of jury service" when it is inconsistent with "her own special responsibilities" (*Hoyt v. Florida* 1963: 62). Starting with an estate law that favored men over women, the rationality of such arrangements was finally questioned in *Reed v. Reed* (1971). Once the gate was opened, the Court moved quickly in applying increasingly rigorous standards of review to legal classifications based on sex. The equality principle had taken root and was flowering into a constitutional and statutory guarantee that attached to women's civic membership. In a series of cases over the early and mid-1970s, state and federal statutes that contained arbitrary or in-

vidious sex distinctions were repeatedly struck down. Likewise, in another series of cases, the federal courts upheld the Equal Employment Opportunity Commission's (EEOC) belated efforts to enforce the employment nondiscrimination principles of the Civil Rights Act to the situation of working women. Yet, as quickly as that judicial trend began, it slowed and reversed in places as more conservative justices forcefully asserted that sex was not the same as race—that sex differences were substantial, so that laws and institutional practices that recognized gender were not necessarily forms of unjust discrimination.[5] After a series of mid- and late-1970s cases upheld certain forms of "benign" sex classifications, the Court's commitment to gender equality seemed, at best, partial and incoherent.

For the courts, political officials, and the American public, the commitment to equality was qualified and ambivalent in the case of women. Equality, as defined in the United States after the *Brown* decision, had a particular meaning. Drawn from the model of race discrimination, equality meant that status distinctions based on immutable characteristics were not politically or legally relevant—they could not be used to justify differences in the civil or political rights afforded to persons. Grounding this belief in equality was the view that immutable characteristics are superficial and do not constitute a person's talents or abilities. Over time, the definition of equality became somewhat more robust, yet it remained rooted in the language of individual achievement. Instead of focusing merely on legal discrimination, lawmakers and jurists became interested in instances of discrimination in the broader public realm, including the workplace. Further, the conviction that an individual's talents and abilities ought to be fully expressed and developed led to a strong emphasis on equality of educational opportunities. Yet, because many Americans remained convinced that gender differences run more than skin deep and that women's social roles should be based on more than the pursuit of individual ambitions, there was a limit to how far they thought the pursuit of equality should go. Even among activists, equality was considered a poor vehicle for expressing some of the concerns and desires of women as citizens. In areas such as contraception and abortion, privacy became an alternative principle for expanding the rights of women.

The focus here is on the constitutional expansion of women's rights under the doctrine of equality in the 1970s. Starting in the early 1970s, the Women's Rights Project of the American Civil Liberties Union, the Center for Constitutional Rights, Human Rights for Women, Inc., and the National Women's Law

Center attempted to replicate the successful judicial campaign of the NAACP Legal Defense Fund that resulted in the *Brown* decision. The constitutional campaign against sex discrimination brought many successes. Beginning with *Reed v. Reed* in 1971, the Supreme Court applied the Equal Protection Clause of the Fourteenth Amendment against sex classifications found to be invidious or irrational. This standard was strengthened through a series of cases in the early 1970s that resulted in the articulation of an "intermediate scrutiny" standard for sex classifications in *Craig v. Boren* (1976).[6] Nonetheless, the Court was generally more tolerant of what it considered "benign" classifications—that is, laws that discriminated in favor of women. Parallel developments were occurring in the area of employment opportunity law. Further, by the middle of the decade, the development of equal protection doctrine in the area of sex was constrained by the public campaign to adopt the ERA. When that campaign failed in the early 1980s, the judicial phase of equality-based civic expansion came to a halt.

Nearly two decades after the Court moved aggressively to dismantle the apartheid regime of racial segregation in the South, using the Equal Protection Clause of the Fourteenth Amendment (*Brown*), the doctrine of equal protection was applied to sex in *Reed v. Reed.* This was the first of several cases brought before the Court by Ruth Bader Ginsburg, who was subsequently appointed director of the new Women's Rights Project for the American Civil Liberties Union. Of the six cases that Ginsburg argued before the Supreme Court in the 1970s (*Frontiero v. Richardson* 1973; *Kahn v. Shevin* 1974; *Weinberger v. Wiesenfeld* 1975; *Edwards v. Healy* 1975; *Califano v. Goldfarb* 1977; *Duren v. Missouri* 1979), she won five (all except *Kahn*). Ginsburg also prepared briefs for several other leading equal protection cases in the 1970s. As a result of this line of cases, the Burger Court established an intermediate standard of heightened review for sex classifications under the Equal Protection Clause, placing sex between the more rigorous review standard applied to suspect classifications such as race and the far more deferential reviews applied to non-suspect classifications such as residency. The development of equal protection doctrine in the 1970s was animated primarily by a concern about race; where the Court found that sex did not fit the paradigm being applied to race, it was much more likely to uphold the classification.

The doctrine of equal protection as applied to sex was developed over a series of cases in the 1970s. In *Reed*, the Supreme Court overturned an Idaho law that favored men as estate executers in choosing between the parents of a deceased child. The Court found that "to give a mandatory preference to mem-

bers of either sex over members of the other, merely to accomplish the elimination of hearings on the merits, is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment" (*Reed v. Reed* 1971: 76). Two years later, in *Frontiero v. Richardson*, the majority of the Court struck down military regulations that provided unequally for the dependents of male and female service members. Writing for a plurality of the Court, Justice Brennan stated that sex should be treated as a suspect category for equal protection purposes, given the nation's "long and unfortunate history of sex discrimination" (*Frontiero v. Richardson* 1973: 684). Justice Powell concurred in the opinion, but differed from the plurality on the question of what standard to apply in reviewing sex-based classifications. He called for a more cautious and gradual approach to this issue. "It is unnecessary for the Court in this case to characterize sex as a suspect classification, with all of the far-reaching implications of such a holding" (691–92). One of the reasons to delay the question of which standard to apply, according to Powell, was that the Equal Rights Amendment (which was ratified by Congress in 1972) was then under consideration in the states, so a rush to judicial judgment on the question of gender equality might effectively short-circuit a democratic political process (692).

Brennan, it seemed, had gone further than many on the Supreme Court were ready to go, and in the next couple of years there were a few reversals in which the Court upheld laws that had been challenged as violating the Equal Protection Clause (or its equivalent at the federal level, the Due Process Clause of the Fifth Amendment). These included *Kahn v. Shevin* (1974), *Gelduldig v. Aiello* (1974), and *Schlesinger v. Ballard* (1975). In the first and last of these cases, the Court upheld sex classifications that it viewed as benign or beneficial to women. In the case of *Gelduldig*, the Court was unwilling to strike down California's disability insurance system for its failure to provide coverage for pregnant working women. The Court found that the insurance program was not discriminatory. "There is no risk from which men are protected and women are not. Likewise, there is no risk from which women are protected and men are not" (*Gelduldig v. Aiello* 1974: 496–97). Pregnant women, it seemed, were not comparably situated to non-pregnant men, so to deny them coverage for pregnancy was not discriminatory. The analysis in this case suggested the limits of the equality analysis under which sex classifications were being scrutinized.

These cases were followed by another series of positive rulings in which the Supreme Court struck down laws found to violate the Equal Protection Clause.

Many of these cases involved instances of discrimination against men, most famously in *Weinberger v. Wiesenfeld* (1975), as well as *Craig v. Boren* (1976), *Califano v. Goldfarb* (1977), *Orr v. Orr* (1979), and *Califano v. Westcott* (1979). These cases were presented as instances in which a seemingly benign discrimination in favor of women did an injustice to men and, more importantly, represented a substantial discrimination against women outside their traditional roles as mothers or wives. Thus, for instance, in the *Wiesenfeld* case, a young father was denied social security benefits after his working wife died in childbirth, because he had not been primarily supported by his wife's wages before she died. Without this support—to which he would have been automatically entitled as a widow—Wiesenfeld could not afford to stay home with his infant son. Ginsburg argued before the Court that this denial was really a failure to fully recognize and reward working women by providing for their survivors as equally as for the survivors of a male worker. The Court agreed. By *Craig v. Boren*, the Court had settled on an intermediate, or heightened, scrutiny standard for reviewing sex classification laws.

An important element in the success and limitations of these equal protection cases concerned the parallel that was developed between sex discrimination and race discrimination. Ginsburg wrote that she first developed her argument about the parallel between race and sex discrimination (most famously in the *Reed* brief) because, under the original understanding of the Fourteenth Amendment, sex classification was not constitutionally problematic (Ginsburg 1978: 453). The authors of this amendment, the men who voted for the amendment in Congress, and the jurists who first interpreted the Fourteenth Amendment, all found that there was no constitutional prohibition on state laws that barred women from voting, prevented them from obtaining professional employment or higher education, or denied basic civil rights to women who were married. So if women were to obtain equal protection under the Constitution, to be treated as legal persons and public individuals, it would be on the basis of an evolving meaning of constitutional principles, as illustrated through the use of social parallels with groups covered under the amendment's original intent.

The strategy was a successful one, if ultimately one that carried certain costs. Jurists recognized this parallel and responded to it, just as members of the liberal feminist movement were drawing similar parallels to the principles and achievements of the civil rights movement, and as members of Congress were enacting parallel prohibitions to discrimination on the basis of race or sex (most famously in Title VII, then later in the area of education under Title IX of the Educational Amendments Act of 1972). By the 1970s, racial equality provided

an unequivocal language of social justice to which the government and the public were fully responsive. If that language could be borrowed effectively by another group, then it was likely to advance substantially its claims to social equality. Further, race had received constitutional recognition as a protected category—a recognition that was not always meaningful in practical terms, but had been made so again since the *Brown* ruling in 1954. In some sense, then, it was inevitable that race would provide the paradigm for civic and constitutional equality.

When the courts took up this parallel in the equal protection cases, they did so in ways that echoed the more simplistic view of the meaning of racial and gender inequality more often than they articulated the complex view of the parallels and connections between those two forms of civic hierarchy. Clearly drawing on Ginsburg's brief, in *Frontiero*, Justice Brennan applied the "shell" theory to explain the error in applying racial or sex classifications in law.

> Moreover, since sex, like race and national origin, is an immutable characteristic determined solely by the accident of birth, the imposition of special disabilities upon the members of a particular sex because of their sex would seem to violate "the basic concept of our system that legal burdens should bear some relationship to individual responsibility." (*Frontiero v. Richardson* 1973: 686)[7]

Similarly, in his dissent in *Kahn*, Brennan said that sex classifications, "like classifications based upon race," should be subject to strict scrutiny, since they were based on "generally immutable characteristics over which individuals have little or no control" (*Kahn v. Shevin* 1974: 357). In *Regents of University of California v. Bakke* (1978) (which overturned an affirmative action program at the University of California, Davis, medical school), the Court added a further layer to this analysis in suggesting that sex differences were easier to identify and manage in public policy, given that there were only two sexes. Even though the Court did not ultimately agree to treat sex to the same level of scrutiny as race, the two categories were viewed together as primary axes of social division and discrimination. "Classifications based upon gender, not unlike those based upon race, have traditionally been the touchstone for pervasive and often subtle discrimination" (*Personnel Adm'r of Massachusetts v. Feeney* 1979: 280). Race was like sex, in that it was a matter of physical exteriors that had little bearing on an individual's talents and abilities, and in that both were the basis of widespread social discrimination.

The more subtle analysis looked in greater detail at the historical creation of racial and gender hierarchies, and focused particularly on the institutional and legal basis. Leading legal advocates of gender equality, such as Ruth Bader Ginsburg and Pauli Murray, provided this kind of analysis. Unfortunately, however, building on the first view of the parallels between race and gender resulted in a tendency in the courts to treat sex discrimination as simply a matter of traditional or outmoded thinking (often seen as benign), with no political history or institutional foundation. Thus, in the *Bakke* case, Justice Powell explained why racial classifications were particularly problematic: "the perception of racial classifications as inherently odious stems from a lengthy and tragic history that gender-based classifications do not share. In sum, the Court has never viewed such classification as inherently suspect or as comparable to racial or ethnic classifications for the purpose of equal protection analysis" (*Regents of University of California v. Bakke* 1978: 303). Even where the role of government in creating or reinforcing gender inequality was acknowledged, as it was by Brennan in *Frontiero*,[8] the tendency was to see this role as simply a reflection of social mores. Thus, after quoting Bradley's infamous opinion in *Bradwell v. Illinois* in 1873—"The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother" (quoted in *Frontiero v. Richardson* 1973: 685)—Brennan writes: "As a result of notions such as these, our statute books gradually became laden with gross, stereotyped distinctions between the sexes" (685).

Not only did the parallel between race and gender limit the equality analysis as it was applied to sex, but there were other problems with the development of equal protection jurisprudence. These problems can be seen in three of the cases where the Court ruled that equal protection did not apply: *Kahn*, *Gelduldig*, and *Feeney*. In *Kahn*, the Court upheld a law providing a tax benefit to widows but not widowers: "There can be no dispute that the financial difficulties confronting the lone woman in Florida or in any other State exceed those facing the man" (*Kahn v. Shevin* 1974: 353). Thus, where a state provided positive assistance to a woman in recognition of her economic status, the law survived scrutiny. Moreover, where the equality standard was not decisive (see also *Schlesinger v. Ballard* 1975; *Califano v. Webster* 1977), women were viewed in group terms under a gendered status of dependency rather than as individuals. What made recognition of this status acceptable to the Court was the view that dependency was an unfortunate, not a government-created, state.

In the *Feeney* case, the opposite problem held. Massachusetts provided a pref-

erence for veterans in hiring that effectively barred women from upper-level civil service jobs. Yet the preference was found to be constitutional because it was facially neutral and did not demonstrate either overt or covert discriminatory intent against women. After all, in addition to all of the women who were excluded, many men were denied the employment benefit as well. Here the Court failed to recognize that the preferred status (veteran) was implicitly and heavily gendered, and that the gendering of that status contributed to the civic recognition attached to it (Ritter 2003). Thus, it seems, the government's recognition of how a status was gendered and what the government's role was in creating such a status was problematic in a couple of ways. These rulings suggest a Court that was unable to see the subtle ways in which a government-created status could be implicitly gendered. Further, the Court may have been more able to recognize the existence of negative statuses attached to an oppressed group than positive statuses attached to a favored group. Finally, when negative group status received government recognition as a premise for government action, it was under the presumption that the group basis of such a status should not continue and that "groupness" itself implied inequality. For true equality to exist, collective identities must be shed, or at least be made irrelevant to one's civic role. This last element of the Court's logic of equality proved particularly problematic, since there was ultimately a limit to how far the Court was willing to go in according women a status as individuals.

Finally, *Gelduldig* shows that, to the extent that women are particular or different from men, they may not be subject to constitutional equality (see also *General Electric Co. v. Gilbert* 1976). As feminist theorists and law scholars long have noted, the standard of equality is a male one, to the extent that "equality" implies being the same as a man (MacKinnon 1987; de Beauvoir 1989; W. Brown 1995). As explained above, in this case the State of California failed to cover working women for pregnancy and childbirth in its employment disability insurance program. In finding this exclusion constitutionally acceptable, the Court found that no inequality was created because there was no equal risk faced by men and women for which one sex was covered and the other one was not. In contrast, other cases from the 1970s (*Cleveland Board of Education v. LaFleur* 1974; *Turner v. Dept. of Employment Security of Utah* 1975) ruled in favor of the rights of pregnant working women (a position ultimately codified by Congress in the Pregnancy Discrimination Act of 1978), but these cases were decided on due process rather than equal protection grounds. An implicit issue distinguish-

ing these cases may have been the relationship between pregnancy and a woman's ability and willingness to engage in public economic activity. "Perhaps the *able* pregnant woman seeking only to do a day's work for a day's pay is a sympathetic figure before the Court, while the woman *disabled* by pregnancy is suspect" (Ginsburg 1978: 462). Where rights were to be extended in areas in which women were viewed as physically different from men, equality analysis did not apply.

The constitutional expansion of women's civic membership through equality measures in the 1960s and 1970s reveals the difficulties entailed in fitting women into a liberal conception of citizenship and personhood through institutional reforms that entail friction with a prior social order. While seeking to make women "equal" and thereby erasing the significance of gender from their civic identities, the equality approach was limited both by the ways in which the courts found women to be irreducibly different from men and by the loss of history and political identity entailed when the project of equality succeeded. The desire to preserve recognition of gender difference ultimately fed into the development of the privacy doctrine (see Ritter 2006, chap. 8). Women were left with the political choice between public sameness or private notions of difference. The vision of civic membership that emerges from the equal protection cases is one in which substantive group identities must remain nonpolitical. As long as gender remains relevant to a woman's civic membership (except as a set of practical interests), it is a signal of inequality and of her failure to be fully absorbed into the ideal of liberal, individuated civic membership. The cost of equality for women, then, is the cost of their gender.

Yet some advocates of gender equality in the 1960s and 1970s also projected a constitutional vision of an enriched equality that would incorporate recognition of women as physical beings and as caregivers, without denying them the opportunity for full participation in the economic and political life of the nation. The shift that these equality advocates sought in our understanding of gender and civic membership would allow for recognition of women's relationality while still enabling them to pursue participation in the public realm. In such a scenario, pregnancy benefits, parental leave, childcare, reproductive rights, health care, and other measures would provide for a more substantive civic ideal that was public and equal. Equality would be understood more in terms of equity principles—it would be particularized to enable all citizens to participate and bring their full selves with them into public and political life. This is a vision of equality that has yet to be realized.

Conclusion

This chapter has focused on debates over the civic membership of women because, as both a central and long-subordinated group in American politics, their civic membership reveals the boundaries and nature of the constitutional order. In viewing the processes of constitutional development from a social-ordering perspective, we bring both the institutional development of the constitutional order and the changing social composition of that order into relief. What emerges from this analysis is the long, uneven, and still unfinished process of American democratization. This is the story of the shift from a constitutional order in which women were governed by the common law and coverture to one in which they stand as autonomous, rights-bearing individuals in the public realm. Yet the emergence of this new civic status for women remains marked by presumptions about women's vital role in creating the social arrangements necessary for a well-ordered democracy. Consequently, our willingness to grant women the status of autonomous legal individuals remains somewhat limited. Further, despite the advantages that are available to many women within this new civic status, there is also evidence of the discrepancies and disadvantages that derive from individualism and equality as they are cast in this modern, liberal constitutional order.

What does an analysis of the development of women's civic rights teach us about processes of democratization in the United States? There are several lessons to be taken from this analysis. First, the American constitutional order inspires aspirants for political inclusion to frame their rights claims in the context of particular constitutional norms and traditions (see also Hartog 1987). As an "immanent democracy," the United States has always represented itself as liberal and democratic. For members of the nation who have not been fully recognized as rights-bearing citizens, the American democratic tradition has served both as an inspiration and resource and as a barrier to full inclusion. Second, the analysis confirms the impact that social movements can have on constitutional development and democratization—although it also suggests that this impact can be negative as well as positive. Even within democratic nations where participatory rights exist for much of the population, there may be barriers to electoral participation that lead political aspirants to turn to the judiciary or to the court of public opinion in their pleas for civic recognition. Third, it clarifies the way that constitutional structures may shape and limit the enactment of citizenship by, for instance, privileging certain rights and relations between the citizenry

and the government over others (Ritter 2002). Fourth, by conceiving of constitutional structures in social-design terms, this analysis highlights the way that government structures invoke and create differential social statuses and roles. To the extent that the constitutional order helps to create "the People," it is deeply implicated in questions of social equality and inequality. Finally, focusing more particularly on the changing civic status of women, this analysis reveals liberal citizenship—at least as it is constituted in American politics—as a mixed blessing for those seeking to express and gain recognition for social experiences that do not readily fit under the heading of autonomous, self-interested individualism.

CASES CITED

Adkins v. Children's Hospital, 261 U.S. 525 (1923)
Bradwell v. Illinois, 83 U.S. 130 (1873)
Breedlove v. Suttles, 302 U.S. 277 (1937)
Brown v. Board of Education, 347 U.S. 483 (1954)
Califano v. Goldfarb, 430 U.S. 199 (1977)
Califano v. Webster, 430 U.S. 313 (1977)
Califano v. Westcott, 443 U.S. 76 (1979)
Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974)
Craig v. Boren, 429 U.S. 190 (1976)
Dred Scott v. Sandford, 60 U.S. 393 (1857)
Duren v. Missouri, 439 U.S. 35 (1979)
Edwards v. Healy, 421 U.S. 772 (1975)
EEOC v. Sears, Roebuck and Co., 839 F.2d 302 7th Cir. (1988)
Fairchild v. Hughes, 258 U.S. 126 (1922)
Frontiero v. Richardson, 411 U.S. 677 (1973)
Gelduldig v. Aiello, 417 U.S. 484 (1974)
General Electric Co. v. Gilbert, 429 U.S. 125 (1976)
Griswold v. Connecticut, 381 U.S. 479 (1965)
Hirabyashi v. U.S., 320 U.S. 81 (1943)
Hoyt v. Florida, 368 U.S. 57 (1963)
Kahn v. Shevin, 416 U.S. 351 (1974)
Leser v. Garnett, 258 U.S. 130 (1922)
Lochner v. New York, 198 U.S. 45 (1905)
Minor v. Happersett, 88 U.S. 162 (1874)
Muller v. Oregon, 208 U.S. 412 (1908)
Neal v. Delaware, 103 U.S. 370 (1880)
Orr v. Orr, 440 U.S. 268 (1979)
Personnel Adm'r of Massachusetts v. Feeney, 442 U.S. 272 (1979)
Plessy v. Ferguson, 163 U.S. 537 (1896)
Poe v. Ullman, 367 U.S. 497 (1961)
Reed v. Reed, 404 U.S. 71 (1971)

Regents of University of California v. Bakke, 438 U.S. 265 (1978)
Schlesinger v. Ballard, 419 U.S. 498 (1975)
Strauder v. West Virginia, 100 U.S. 303 (1880)
Turner v. Dept. of Employment Security of Utah, 423 U.S. 44 (1975)
Weinberger v. Wiesenfeld, 420 U.S. 677 (1975)

CHAPTER SIX

The Reversal of Black Voting Rights after Reconstruction

Stephen Tuck

On January 29, 1901, a forty-eight-year-old black congressman from North Carolina, George Henry White, stood on the floor of the House to speak. A former slave, White had worked as a teacher and lawyer before entering politics. Though by no means a militant, he had long been an advocate of justice for the "colored American" in accordance with what he considered to be the traditions of American democracy and the ideals of the Republican Party. But this speech carried particular poignancy. It was White's final speech—and he was the last remaining black congressman. Facing his white colleagues for the last time, he spoke with desperate "earnestness": "I want to enter a plea for the colored man, the colored woman, the colored boy, and the colored girl of this country." White concluded by "pleading for the life, the liberty, the future happiness, and manhood suffrage for one-eighth of the entire population of the United States" (Congressional Record 1901: 1634, 1638; see also Justesen 2001). His pleading fell on deaf and mostly hostile ears. White left Congress on March 4, 1901. No African American would be elected to Congress for almost thirty years, no black Southerner until the 1970s.

White's final speech has much to tell about democratization in the United States. Most obviously, his departure shows that the process went backward as well as forward. The United States was not born a full democracy, nor did it inexorably become one. Thus its place in the "first wave" of democracies needs some qualification. For Samuel Huntington (1991: 30), the first wave began with Jacksonian democracy in 1828, when the United States became "the premier democratic country in the world." Furthermore, it is in the area of race that

reversals of democracy have been most dramatic. At the height of post–Civil War Reconstruction (1865–77), a flurry of legislation promised a revolution in southern race relations by means of the ballot box. The Fourteenth Amendment (1868) asserted: "No State should make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The Fifteenth Amendment (1870) declared: "The right of citizens . . . to vote shall not be denied . . . on account of race, color, or previous condition of servitude." Section 2 of the amendment gave Congress the power to enforce it.

Newly emancipated African Americans became the key supporters of Republican state governments across the South and formed a voting majority in five states (Foner 2002; Middleton 2002). But by 1908, virtually all black Americans in southern states had been disfranchised. Black Southerners did not begin to claw back the right to register to vote until the 1940s, and they would not regain it fully until the Voting Rights Act of 1965 (Lawson 1985; Tuck 2003).

That George White issued his plea from Congress rather than from, say, a chain gang flags the curious method of this reversal. Some congressmen even applauded White's speech (Congressional Record 1901: 1638); and Richard Valelly (2004) argues that the process of this reversal—in which a major population group is enfranchised, then disfranchised, through procedural means—is unique to the United States. Procedural means (elections and the democratic process) were used to produce an undemocratic result (loss of the franchise, a basic constitutional right). Across the South, African American voters were disfranchised through state constitutional amendments that were adopted by referenda or constitutional conventions.

Thus, U.S. disfranchisement is a reminder that the reversal of democracy can take a variety of forms. This was not a military coup overturning a new democracy and reinstating authoritarian rule. Rather, it was the case of a major population group being enfranchised, and then disfranchised, through the democratic process.

As an old democracy, the United States is absent from the burgeoning literature on the consolidation of "third-wave" democracies. For example, in his review of the recent literature, Omar Encarnación (2000: 480) applauded the wide reach of the field, "as new evidence of democratic consolidation from Eastern Europe, the former Soviet Union, Asia and Africa accumulates and joins that of southern Europe and Latin America to create a truly global empirical labora-

tory." But in many ways, the reversal of democratic rights in the United States provides a useful first-wave example for a potential third-wave problem. Or, as Gerard Alexander (2002: 10) puts it, "the best classroom of all is comparison between good and bad times." Much of the current literature is preoccupied, as Encarnación (2000: 480) summarizes, with the key questions: "what is democratic consolidation, and what conditions promote it?" (see also Linz and Stepan 1996b; Diamond 1999). The U.S. case allows such questions to be put in reverse: what conditions promote the reversal of democratic progress?

The U.S. case provides a particularly useful comparison because this reversal occurred following the apparent consolidation of democratic progress after the Civil War. Scholars disagree over the best definition of democratic consolidation. But the U.S. South, between the Fifteenth Amendment and disfranchisement, seems to fit most measures (Linz and Stepan 1996b; Schedler 1998; Pevehouse 2002). It passes Guillermo O'Donnell's (1996) longevity test of staying in place for two decades. As this chapter shows, the high turnout of black and white voters in the 1880s provides evidence of reasonably stable biracial arrangements (Woodward 1974).

Disfranchisement began only in 1890 in Mississippi, and in some states it did not begin until the twentieth century (Kousser 1974; Perman 2001; Valelly 2004). The post-Reconstruction South also satisfies, to a large degree, Robert Dahl's (1989) conditions of polyarchy (including free elections, inclusive suffrage, the right to run for office, freedom of expression, and associational autonomy) (see also MacPherson 2006). Above all, the post-Reconstruction South fulfills Adam Przeworski's (1991) requirement that "a particular set of institutions becomes the only game in town" (see also Diamond 1999). It is striking that both black activists and white supremacists worked within the democratic process to further their goals.

Furthermore, the Democrats who first "Redeemed" the South from Republican rule during the 1870s did not initially seek a world without black voters. In a roundtable discussion in the influential *North American Review* in 1879, Mississippi Senator L. Q. Lamar knew of no "southern man of influence" who believed disfranchisement to be a "political possibility." South Carolina Governor Wade Hampton agreed (Hampton 1879). It was not that he (or other Democrats) thought that former slaves should have been given the vote, just that "the disfranchisement of the negro at this or any subsequent period would be more surprising than any political event in our past history." Republican cynics reckoned that Democrats accepted the Fifteenth Amendment only because it had

not stopped them sweeping back into power (Lamar 1879: 231, 240). But even as late as 1890, Sen. John Ingalls, an outspoken critic of Democratic fraud, reckoned that disfranchisement would be "impossible." "No race has ever been deprived of rights and prerogatives once solemnly conferred" (Perman 2001: 38).

Why disfranchisement started so late, but then proceeded at such speed, is thus an important puzzle for understanding the reversal of democratization. On the face of it, the timing of disfranchisement would suggest entirely new developments at the end of the nineteenth century. Political scientists have pointed to weakening support for black Americans by various branches of the national state in Washington, DC, at the turn of the century (Bensel 1984: 77; Keyssar 2000: 108; Valelly 2004). Meanwhile, social historians have highlighted escalating social tensions associated with Populism (a political challenge to Democratic dominance that appealed to poor whites) in the late-nineteenth-century South. Initially, Populists appealed to the black vote, too, in an attempt to create anti-Democratic majorities (Gilmore 1996; Hahn 2003).[1]

As shown in this chapter, both the lack of support in Washington and the campaigns of southern elites were vitally important in the reversal of democratic progress. On their own, however, these factors do not fully resolve the puzzle of the timing of the process. Although southern elites did not champion disfranchisement until the end of the century, the white supremacists' campaign to restore the antebellum social order and undermine black voting power began during Reconstruction. For example, Gilmore (1996) demonstrates that the Populist threat, and associated gender scare (rape, intermixture), provoked a vicious supremacist campaign in North Carolina. But Perman (2001) shows that the Populist threat was key only in North Carolina and Louisiana (see also Redding and James 2001: 8). In this sense, the removal of black voters marked the end of an old southern story rather than the beginning of a new one. Similarly, lack of support from the authorities in Washington at the end of the century, important though this was, did not represent a decisive new departure. The national state had shown little inclination to defend black rights after the final withdrawal of Union troops from the South at the end of Reconstruction.

Rather, an important key to the timing of disfranchisement was the resistance of African American voters themselves. George White's speech, reprinted under the title "Defense of the Negro Race—Charges Answered" (Congressional Record 1901), was indicative of black Southerners' determination to defend their status. He may have been the lamest of lame-duck congressmen, but he was defiant: "[my] parting words are in behalf of an outraged . . . rising people."

Black resistance took many forms and should not be romanticized or exaggerated (for two excellent examples of the recent literature on African American resistance in this period, see Gilmore 1996; Hahn 2003). But in general, as White put it, the black man "demands that he be given the same chance for existence . . . that are [*sic*] accorded to kindred nationalities." Black Southerners had sufficient voting power to back up this demand for a generation (Congressional Record 1901: 1638).

For all their determination, however, former slaves did not have the resources to defend their status as full citizens in perpetuity. Above all, this was because their voting power was not matched by economic or social power. Crucially, the bleaching of the ballot was inextricably linked with the triumph of white supremacy in other areas of southern society. Indeed, if it had been a battle over the ballot alone, it might not have been successful—not least because disfranchisement involved removing a significant number of white voters, too. Again, White's speech illuminates the issues at hand. Angry at disfranchisement, White also condemned lynching, that "evil particular to America"; "unjust public sentiment"; the "humiliation" of segregation; and the fact that in unions and factories, "the black face has been left out" (Congressional Record 1901: 1636–38). The importance of this link between voting and wider social issues was twofold. First, the relative (and increasing) weakness of African Americans beyond the ballot ultimately undermined their ability to resist disfranchisement. Second, advocates of disfranchisement gained support by connecting the ballot to racial tensions in other areas of southern life.

Scholars of democratization have placed great emphasis on elite behavior and institutional design. From these perspectives, democratic openings occur for a wide variety of reasons, but democracy is consolidated when political elites enter into bargains with one another that are backed up by "self-enforcing" institutional arrangements (Higley and Gunther 1992; Przeworski and Limongi 1997; Weingast 1997; Przeworski, Stokes, and Manin 1999). Relatively little attention is given to the role of "mass actors," except with regard to the creation of a civil and political society (Almond and Verba 1965; Putnam, Leonardi, and Nanetti 1993; Linz and Stepan 1996b; Morlino 1998) and to value shifts leading to popular acceptance for democracy (Rustow 1970). For example, Larry Diamond (1999: 68) identifies a minimum two-thirds support for new democratic arrangements as one of the six foundations for successful consolidation.

The history of U.S. disfranchisement, however, suggests that more attention could be given to the role that mass actors (in this case, African Americans and

their allies) might play as part of the enforcement mechanism that leads elites to restrain themselves from backtracking on democracy. In the post-Reconstruction South, African American resistance helped ensure the perpetuation of democracy for a generation.

In the face of this commitment to democracy, southern political elites did not embark on disfranchisement until the end of the century. By this point, African Americans were powerless to defend their democratic rights. Thus the case of the late-nineteenth-century South suggests further that for democratic progress to be consolidated, it requires a reasonably equitable distribution of resources (Karl 2000). Potentially vulnerable groups need not only rights but also the power to exercise them and defend them. In the South, the right to vote was not a right in isolation. Writing about the modern U.S. welfare rights movement, William Forbath observes that "most of the world's constitutions include three kinds of rights: civil, political and social. But the US Constitution sets out no 'social rights.'" The Constitution has "'majestic generalities' like 'liberty' and 'equal protection of the laws' [but] no 'affirmative rights,' no right to welfare or housing, no right to a minimally adequate education." Forbath argues that this neglect "allows such savage inequality as ours." In the post-Reconstruction era, the lack of social rights did not just engender "savage inequality." It put seemingly consolidated democratic progress in jeopardy (Forbath 2005: 725).

The following sections show the tenacity of African American voting after Reconstruction, and that the swift removal of black voters at the end of the century was the culmination of a much longer attempt to reassert white supremacist politics. The inaction of the national state was a vital precondition, but not a trigger, for disfranchisement. The battle for the ballot was associated with a wide range of social tensions. Black resistance at the ballot box was undermined by the relative weakness of African Americans in other aspects of southern life. Without recognizing that African Americans had to fight a siege on many fronts, not just one, it is hard to explain the eventual outcome, since effective resistance on so many fronts was a superhuman task.

The disfranchisement of African American voters in the South is a genuinely puzzling case. It makes little sense from the perspective of the "consolidation" literature, and the only way to unravel it is to focus on the sheer number of fronts on which African Americans had to fight—something that we see clearly if we go through those various fronts and bring in, in a suggestive way, three other, little known, attempts to disfranchise African Americans that constitute two contrasting cases. In these cases—in antebellum Pennsylvania and New

York, and in early-twentieth-century Maryland—white elites also campaigned for disfranchisement with limited fear of interference from the national state. But the ability of African Americans to defend their franchise varied, with crucial consequences for the timing and outcomes of each campaign. The chapter ends with a discussion of the wider implications of this episode in U.S. history for the study of democratization.

The Process of Disfranchisement in the American South

The systematic removal of black voters began in Mississippi in 1890 and finished in Georgia in 1908. The devices employed varied across the states. Some states required literacy or good character qualifications before a person could register, others required property ownership. All states introduced a poll tax. Ultimately, every southern state revised its state constitution in some way to secure disfranchisement (see table 6.1) (Kousser 1974: 59; Perman 2001: 322). Disfranchising measures were ostensibly race-neutral, to avoid directly challenging the Reconstruction Amendments. But most measures were open to discrimination in practice. When asked whether Christ could register under a good character clause, one Alabama leader admitted that "that would depend entirely on which way he was going to vote" (Kousser 1974: 59). In any case, many qualifications included ruses to protect white voters. There was some decrease in the number of white voters in southern states. But overall, the relative strength of the

Table 6.1. Turnout Estimates (%) for Black Voters, 1880–1912, in Southern States (showing the effects of poll tax and literacy tests)

State	1880	1892	1900	1912
Alabama	55	55	21	2
Arkansas	57	36	*12*	*3*
Florida	84	*14*	7	*2*
Georgia	*42*	*33*	7	2
Louisiana	44	30	4	1
Mississippi	45	1	4	2
North Carolina	81	63	44	1
South Carolina	77	17	4	2
Tennessee	79	*31*	*14*	*1*
Texas	59	53	32	2
Virginia	*59*	58	38	2

Source: Redding and James 2001: 148.

Note: Italic denotes states with a poll tax; underlining denotes states with a literacy test.

white vote grew with staggering effect (see table 6.2). For all the suddenness of disfranchisement, however, this was a knockout blow at the end of a much longer struggle. Although formal disfranchisement began at the end of the century, white Democratic elites sought to reduce black voting power immediately after they regained power at the end of Reconstruction. The exact details varied from state to state, but overall there was a stage-by-stage assault on black electoral influence (for an overview, see Kousser 1974, 1999: 25–27). An initial wave of violence and fraud was only partially effective, and such blatant contravention of the Fifteenth Amendment risked federal interference. Having won the elections, therefore, Democratic leaders introduced a variety of race-neutral devices to dilute the black vote. In Florida, during 1876–78, thousands of black voters were purged from the lists after being convicted of petty crimes (Kharif 1985: 162).

Democratic Party leaders entrenched their control by shifting to at-large elections where white voters were in the majority, or by gerrymandering voting districts where they were not. This gradual dilution of black voting power opened the way to the swift removal of black voters in each state at the turn of the century. With hindsight, the process seems inexorable. But leading Democrats rightly did not see it that way. The Reconstruction settlement proscribed any systematic extralegal attack on black voting. Meanwhile, black Southerners seemed to carry sufficient voting power to repel a procedural assault on their right to vote. To be sure, the Redemption of the South from Republican rule at the end of Reconstruction ushered in a so-called Solid South of Democratic dominance that lasted for nearly a century. But Redemption did not end black involvement in electoral politics. The Reconstruction governments were gone, but the Reconstruction electorate remained (Perman 2001: 33). During the 1880s, on average, some six out of ten black Southerners voted in the most heavily contested elections for governor. In Orangeburg, South Carolina, Democratic boss Sam Dibble was told in 1880 that blacks were "working with great energy . . . I've pried into their camps . . . We are in danger" (Kantrowitz 2000:

Table 6.2. Voter Turnout (%) in the South, 1880–1912, by Race

	1880	1892	1900	1912
Black voters	61	36	17	2
White voters	67	67	55	40

Source: Redding and James 2001: 148.
Note: Figures are the mean of U.S. state means.

96–97). Although gerrymandered districts diluted black voting power overall, they also ensured some local electoral victories.

Indeed, twelve of the fourteen terms served by black congressmen from 1879 to 1901, including George White, were in gerrymandered districts (W. Cohen 1991: 206). Moreover, the black bloc vote carried power because the white vote was far from solidly Democratic. Many white voters initially opposed disfranchisement proposals. During the early 1880s, in seven of eleven southern states, more than 40 percent of voters cast a vote against the Democrats in state elections (Kousser 1974: 27; Kantrowitz 2000: 97). At the local level, hundreds of anti-Democratic candidates were elected, many of them black (Moneyhon 1985: 227; Pitre 1985: 53). So-called New Departure Democrats appealed for the black vote and, frequently, were prepared to pay for it. In some black majority counties, Democrats even nominated black officials (Gordon 1995: 13). By maintaining access to the ballot, black voters were initially able to join dissenting white voters and reject disfranchising measures. Moreover, the rewards from black voting power had potentially far-reaching effects for the further consolidation of southern democracy. The appointment of black police could protect black workers at work and during elections. Increased spending on education helped adult black men register and cast a vote. Improvements in neighborhood sanitation countered stereotypes of blacks as unsuitable for civil society (Hartzell 1991: 140; Oldfield 2001: 159).

Black involvement in state governments after Reconstruction was mostly politics on the defensive. But on occasion, splits in the white vote even allowed black legislators to become part of coalition state governments. In three former slave states—Virginia, 1879–83; North Carolina, 1894–98; and Maryland, 1896–1900—the Democrats were defeated. Biracial alliances were no panacea of racial harmony (Cantrell and Barton 1989: 659). Still, the spoils from such victories were impressive. In North Carolina in 1897, the *Raleigh Gazette* recorded that George White arranged thirty-six appointments for African Americans, an "excellent showing for our congressman" (Kenzer 1997: 102). Ironically, the few moments of advance also provided propaganda for some disfranchisement campaigns. In North Carolina and Louisiana, the Populist threat to Democratic rule triggered state disfranchisement campaigns (Perman 2001). But for the most part, disfranchisement was dependent on the earlier gradual dilution of black voting power. In an important sense, Democratic leaders often launched disfranchisement campaigns not because of any new concerns, but because they

could. Each step to impede black voting enabled white elites to imagine the next one, and empowered them to take it. Disfranchisement was only possible once both white dissent and black voting strength had been undermined. Even at this late stage, black Southerners fought disfranchisement through public protests and legal action; they also borrowed mobilizing techniques from their opponents (Kousser 1974: 250; Kharif 1985: 162). But by the early twentieth century, the bleaching of the ballot was virtually complete.

National State and Republican Politics

During Reconstruction, unprecedented activism by the national state led to a dramatic expansion of the citizenry and the democratic rights of citizens. Yet the national state then stood aside when virtually all African Americans in the South lost the right to vote. Federal government inaction was an important precondition for the success of southern disfranchisement, but it was not the prompt for the process.

Why the national state stood aside is open to many interpretations. Political sociologists have often treated the American polity in this period either as a weak national state incapable of enforcing citizenship rights or, more commonly, as a sectional state in which the South had considerable autonomy. There is certainly a contrast with the mid-twentieth century, when a powerful Civil Rights Division in the Justice Department proved adept at enforcing the law in southern states (Tuck 2006). Nevertheless, contemporary black leaders accused the branches of the national state of being complicit in the reassertion of white supremacy. The novelist Charles Chesnutt (2003: 115) complained that "when we seek relief at the hands of Congress, we are informed that our plea involves a legal question, and we are referred to the Courts. When we appeal to the Courts, we are gravely told that the question is a political one, and that we must go to Congress."

African American leaders had good grounds to complain. Democracy was not betrayed simply because the national state was too weak to interfere. By the turn of the century, the American state was increasingly able to make an impact beyond Washington. Congress's bold Reconstruction experiment in expanding national power had ended by 1873, but in some ways the legacy of an activist national state endured (Orren and Skowronek 2004: 133–43). Administrative reform enhanced the capacities of the federal bureaucracy to govern nationally (Skowronek 1982; Argersinger 2001). At times, national institutions were will-

ing to flex their muscles with regard to the South. During the period 1880–1901, for example, Republican Congresses intervened in twenty-six elections to seat southern Republicans or Populist candidates who had been defeated through fraud (Kousser 1974: 263). Furthermore, the restraining influence of southern Democrats in Washington was limited. Between the end of the Civil War and 1912, Southerners gained only seven of thirty-one Supreme Court appointments, two of twelve House speakerships, and, with the exception of Andrew Johnson, not a single presidential or vice-presidential nomination (Hahn 1990: 95).

In contrast, between 1868 and 1912, the Republican Party controlled the Senate for forty years, the House for twenty-six years, and the presidency for thirty-six years. To be sure, elections in the so-called Gilded Age were closely contested such that the Republicans often lacked the congressional majorities to pass effective legislation. But crucially, during 1889–91, when disfranchisement was under way, the Republican Party controlled all three branches of the federal government. During this Fifty-First Congress, Republican Speaker Thomas "Czar" Reed famously forced an end to the minority party's ability to obstruct House business, and Republicans passed such wide-ranging measures as the McKinley Tariff Act (1890), the Land Revision Act (1891), and the Dependent Pension Act (1890) (Argersinger 2001: 131).

Nationally, the problem was the action—and on occasions deliberate inaction—of all branches of the federal government in the face of the southern reversal of democratization. For example, the Republican Party failed to pass the Lodge Bill during the activist Congress of 1889–91, which would have significantly increased federal power to intervene in state elections. (Congress failed even to pass the Blair Education Bill, which would have helped the schooling of blacks.) The failure to pass the Lodge Bill is all the more telling because it was in Republican electoral self-interest to do so. The Democratic-controlled legislature of 1893–94 then repealed the remaining Reconstruction federal election laws (Perman 2001: 43–47). Party strategists calculated that 30 of 123 seats in the former slave states had been "stolen" during the elections of 1888 (M. Schneider 1997: 31). When Republicans regained control of Congress in 1896, they abandoned black voters altogether. By this point, Republicans lacked any incentive to intervene. The electoral realignment of 1896, which led to Republican dominance based on support in the new western states, allowed them to abandon southern black voters (Valelly 2004: 136). In addition, as Richard Bensel (1984: 77) explains, their desire for a "stable economic environment for northern investment and commerce" encouraged them to do so.

Some scholars have suggested that the federal government's abdication of responsibility for black voting during the 1890s prompted southern politicians to pursue disfranchisement. Alexander Keyssar and others suggest that the failure to pass the Lodge Bill acted as a trigger (Keyssar 2000: 108; Argersinger 2001: 132). Richard Valelly points to the electoral realignment of 1896 as the source of a changed signal to southern white elites. Thus, Republican inaction in the wake of realignment "shut off . . . a yellow light in the region that signaled 'proceed with caution' and may have turned on a green light." It "made black disenfranchisement quite unstoppable" (Valelly 2004: 136). Undoubtedly the electoral realignment made disfranchisement unstoppable by the mid-1890s. But disfranchisement was well under way by this point. Moreover, as shown below, southern white supremacists, while taking care not to challenge the Fifteenth Amendment explicitly, were hardly restrained before the 1890s. At the other end of the timeframe, constitutional disfranchisement in some states did not even begin before the 1900s. Above all, the lack of support from Washington during disfranchisement was nothing new. The U.S. Supreme Court's narrow reading of citizenship rights in various cases during 1873 demonstrated "that government officials would not really attempt the daunting task of altering social reality to conform to liberal egalitarian precepts" (R. Smith 1997: 337). A decade later, in the Civil Rights Cases, the Court warned African Americans against appeals to the constitutional protection of equal rights. Justice Joseph Bradley told black Americans that, having assumed the "rank of mere citizen," they could no longer be "a special favorite of the laws."[2]

The other branches of the national state were also complicit from an early stage. After Reconstruction, successive presidents sidestepped the issue of southern white supremacy and supported lily-white measures within their parties and in the national bureaucracy. Meanwhile, the Republican Party pulled back from defending black voting rights soon after passage of the Fifteenth Amendment. In 1873, congressional Republicans decided against removing Reconstruction from the oversight of the Supreme Court, in the full knowledge that the Court was likely to circumscribe federal protection for black Southerners (Orren and Skowronek 2004: 134, 140–42). During the 1880s, black suffrage dropped off Republican Party platforms, and it reemerged only briefly in 1890 in a "perfunctory manner" (Bensel 2000: 171). Lack of Republican interest translated into a lack of regulatory interest. For example, between 1871 and 1893, only 5.3 percent of expenditure for federal election officers went to former Confederate states (Gillette 1979: 48–49; Bensel 1984: 84; Valelly 1995: 200).

Overall, the federal government's reticence reveals that Reconstruction left both a radical and limited legacy (see R. Smith 1997: 286; Orren and Skowronek 2004: 134–42): radical, because a new group was added to the citizenry, thereby creating a new social order in the South; but limited, because the federal government did not take responsibility to protect black citizenship rights inevitably contested by those opposed to the new order. In an important sense, the Civil Rights Cases' ruling encapsulated this unstable state of affairs. By 1883, each black citizen would indeed cease to be "a special favorite of the law" and, instead, "his rights . . . are to be protected in the ordinary modes." As citizen rather than slave, one of the main "ordinary modes" was to defend his own rights and resist white supremacy. The lack of support from the national state severely hampered black Southerners as they sought to do so.

Southern White Supremacy

The struggle over the vote was not a single-issue project. Rather, to quote George White (Congressional Record 1901: 1643), it was a battle over the "full rights of manhood and womanhood." Southern advocates of disfranchisement could not make their case in political terms alone. Rather, white supremacists were successful because they connected the vote with a wide range of economic and social tensions in the late-nineteenth-century South. These tensions were intimately interlinked with gender and class concerns and reestablishment of the antebellum social order. Black-belt elites were at the forefront of disfranchisement, but the wealthy and poor, men and women, had a vested interest in different aspects of white supremacy. Therein lay its power.

As in electoral politics, black Southerners fought to preserve and improve their economic standing, defended their communities from violence, and tried to maintain their social rights. Also as in politics, such resistance slowed the imposition of a new racial order. However, the relative weakness of African Americans beyond the ballot box after Reconstruction ultimately undermined their ability to resist disfranchisement.

Economy

In a capitalist democracy, a measure of economic independence is a particularly important component of citizenship. Gaining money meant gaining autonomy. With regard to voting, capital allowed the payment of poll tax or the building of schools to improve literacy.

In his wartime march through Georgia, General Sherman heard the call for land rather than a call for the vote. But Reconstruction only gave former slaves the right to vote and failed to redistribute land in any meaningful way. Thus former slaves entered the post-Reconstruction era on the margins of a southern economy in crisis. Southern farmers drank from a bitter cocktail of mounting debt, poor harvests, high railroad prices, and international competition. But black workers faced particular handicaps (White 1986). Industrial bosses paid black employees lower wages. Marginal white farmers attacked black renters and landowners (Holmes 1969). Democratic legislatures passed a welter of legislation to bolster the power of landlords (L. Edwards 1998: 335). To one British visitor, Sir George Campbell, the South's convict leasing system "does seem simply a return to another form of slavery" (W. Cohen 1991: 226–27).

As with disfranchisement, the subordination of black labor was not an inexorable victory for landlords or industrial bosses. George White reckoned that, despite leaving slavery penniless, black Southerners owned farms worth something "in the neighbourhood of $750,000,000." The 1900 Census recorded that over one-fifth of black farmers owned the land that they worked (Congressional Record 1901: 1636). This (mostly marginal) land was acquired during Reconstruction rather than afterward. Nevertheless, standing still after Reconstruction was an achievement in itself (Schweninger 1990: 176; Trotter 2001: 303). Nor did it come by chance. Kinship networks and mutual aid societies underpinned black economic development ("African American Fraternal Organizations" 2004).

The vast majority of black Southerners, however, were landless and poor. Nevertheless, the sheer numbers of black workers gave them some strength. In the countryside, the Southern Farmers' Alliance (SFA) paved the way for the Populist movement. In industry, the Knights of Labor took center stage during the 1880s, to be followed by the American Federation of Labor. Both the SFA and many southern unions had black counterparts. Leaders of the Colored Farmers' Alliance (CFA) claimed one million members by 1891. The CFA strongly supported the Lodge Bill, even though the SFA opposed it. In industry, black workers were involved in major strikes in the docks of New Orleans, the lumberyards of Florida, the coalmines of Alabama, and the tobacco factories of Virginia.

On occasion, such protests proved effective. Domestic workers, by virtue of their monopoly of laundry work, held particular power. For example, in 1881, the Washing Society of Atlanta forced the city council to back down from levying a business tax (Hunter 1997: 89–95). Opponents found it hard to land a blow on the so-called Washing Amazons. The status of the work was so menial

that they could not bring in white strike-breakers. And since the protest was by women, the usual appeals to rape scares were absent.

There were clear links between economic protest and the ballot. In the Atlanta case, the strike coincided with Republican gains in the city elections. Such communal confrontation was the exception rather than the rule. But white leaders bemoaned an ongoing problem with black workers. African Americans moved. Relatively few left the South, but perhaps one-third of black laborers moved annually (Latham 1867: 140; W. Cohen 1991: xvi). In industry, some strike-breakers stayed on the job. More generally, African Americans worked for their landlord or boss when they had to, and for themselves when they could. According to historian Sharon Holt (1994: 262), this building of a household economy—"a minor enterprise on a major scale"—was "a way to push desperation just far enough away from the door to make room for hope."

Hope, though, was no substitute for power. The increasing subordination of black workers undermined their ability to hold on to the vote. Yet the tenacity of black workers also strengthened white supremacist campaigns for disfranchisement. Time and again, labor disputes played out in racial terms. During the so-called Louisiana sugar wars of 1887, for example, a majority of cane workers and even some of the strikers were white. But for one plantation mistress, the issue was simply "who is to rule, the nigger or the White Man?" These continuing tensions also explain the rash of vagrancy laws still to come in the early twentieth century (Gould 1984: 45).

Violence

The weakening position of black Americans was shown most brutally through violence. Like many black leaders, White reserved his greatest ire for lynching. He tried to pass a bill against it, pleading for "justice—simple justice" (Congressional Record 1901: 1637). In the preceding decade, some 846 black victims had died at the hands of the mob, roughly one every four days (Tolnay and Beck 1995: 271). In fact there had been mob violence since Emancipation, often on a greater scale (Dray 2002). But lynchings increased markedly during the 1880s and into the disfranchisement era.

Lynchings were also a new form of horror. In Paris, Texas, in 1893, a black man called Henry Smith, who had a learning disability, was punished for alleged rape. Members of the victim's family pressed red-hot irons into Smith's eyes (Tolnay and Beck 1995: 23, 64). Just as telling was the wider acceptance of lynchings. Up to one-third of lynchings were public spectacles. Smith's lynching took place

on a high platform to entertain a crowd of some twenty thousand people, including hundreds of children who had been given the day off school. Images of the lynching were recorded on photographs; sounds of Smith's screaming were recorded on graphophone (Luker 1991: 94). The spectacle reinforced the prevailing ideology of black bestiality—the retribution merely reflected the horror of the crime (J. Hall 1983: 339). The black beast was certainly not fit to vote. Black leaders protested that rape was not the cause of the lynching spree. The leading spokesman, Frederick Douglass, tied lynching squarely to disingenuous supremacist politics. According to Douglass, the mob cried "Negro insurrection" during Reconstruction and "Negro rape" during the disfranchisement era (Douglass 1892: 17). Nevertheless, Democratic publicists used the fear of rape to good effect, asserting that where black men were concerned, the voting booth led directly to the bedroom (Gilmore 1996). Black Americans contested lynching vigorously. In the public domain, the indefatigable Ida B. Wells embodied the campaign, as she charged that white men, not black, were responsible for rape. White violence was contested on the ground, with fist and guns too. In an interview for a police job in Atlanta, one candidate was asked what he would do in the black part of town if "a couple of niggers . . . started to fight you." He replied, "Blow your gong and run like the virry devil" (Rabinowitz 1993: 179). In 1899, in rural McIntosh County, Georgia, Henry Delegale, a locally prominent black man, was jailed on the charge of rape. When the sheriff tried to sneak him out, the bell of the local black Baptist church sounded the alarm, and hundreds of African Americans, many armed, surrounded the jail. Delegale was later released (Brundage 1993: 133–35).

Such community self-defense, however, was much more common during and shortly after Reconstruction, when black Southerners had more arms and were involved in state militias. By the end of the century, black communities had limited options—they appealed to paternalism, shielded potential victims, or moved en masse (Brundage 1997: 277). The increasing prevalence of lynching, and the narrowing options for resistance, showed that the balance of armed power had shifted decisively toward white Southerners. In an era when voting was public and could have dangerous consequences, the weakening of black armed self-defense further undermined the defense of the vote (Bensel 2004: xiii).

Segregation

By the turn of the century, the triumph of white supremacy also gained legal sanction with the introduction of Jim Crow segregation. Like disfranchisement,

legal segregation was imposed at speed toward the turn of the century. In some areas, the introduction of Jim Crow was a codification of existing custom. In others, Jim Crow replaced a pattern of exclusion rather than integration. But in many places, particularly in those areas where African Americans held political power, new laws produced a decisive moment of change (see Rabinowitz 1979; Woodward 1988).

It was not that black Southerners sought social interaction. But as George White's final speech in Congress showed, black leaders saw the "humiliation" of enforced segregation as part of a wider power struggle. For example, the two main clusters of laws on separate transport, around 1890 and 1900, were tied to state disfranchisement campaigns (Perman 2001: 248). By stigmatizing African Americans as unworthy of social contact, legislators legitimized the removal of black men from the voting rolls. The desire for racial separation was also linked closely to competition for jobs (Hunter 1997: 114–15). The link with gender was shown by the fact that segregation was introduced last in all-male environments.

As in other areas of racial oppression, former slaves challenged segregation. Some black leaders played the class card. State Representative John Gray Lucas argued that even advocates of legislation to introduce segregation on Arkansas coaches would not claim "that a drunken white man is preferable, as a fellow passenger, to the most genteel negro" (Kousser 1986: 5; 1991: 249). Others appealed to basic citizenship rights in the courts. In the first case after Redemption in New Orleans, black teacher Paul Trévigne filed in state district court so that his son could continue at his school. However, in Arkansas, the sponsor of the coach segregation bill mocked the class argument, claiming that blacks "want us to draw the soap line." The bill passed with only three legislators opposed. Some legal suits did make an impact, even into the twentieth century. But for the most part, the logic of the arguments was less important than the color of who was making them. In Trévigne's case in Louisiana, the state district judge dismissed the suit, since it referred to possible future damage. But when Trévigne appealed to the state supreme court, the judge ruled that the suit had come too late (Kousser 1991: 227–29; Perman 2001: 249).

Black Southerners protested to the bitter end. Ida Wells bit a conductor before being thrown off a segregated carriage. At the turn of the century, African Americans launched boycotts of segregated transport in at least twenty-five cities, and some boycotts delayed streetcar segregation by a few years (Barnes 1983: 11). But the few successes were fleeting. The logic of racial domination allowed for nothing less.

Two Contrasting Cases

Several other, usually overlooked, cases of attempted disfranchisement underscore the importance of vulnerable groups having sufficient resources to protect their procedural rights. In the antebellum North, black voters were disfranchised, whereas in early-twentieth-century Maryland, repeated attempts to disfranchise black voters were thwarted. In both cases, there was minimal threat of federal intervention. In both cases, white supremacists ran savvy campaigns connecting black voting to wider racial issues. But in the antebellum North, the small numbers of black voters meant that white supremacists were able to impose disfranchisement without delay. In Maryland, the strength of black voters—both at the ballot box and beyond—helped keep disfranchisement at bay.

The Antebellum North

By the outbreak of the Civil War, all northern states save the New England states did not allow black men to vote on equal terms with white men.[3] This restriction of black voting ran in tandem with franchise expansion for white men under Jacksonian democracy. Often, states simply wrote white suffrage into their constitutions from the outset. But in at least four states, existing black voters had to be disfranchised.

The most notable cases were in New York (1821) and Pennsylvania (1838), which had the largest and most organized black communities outside the South (Litwack 1961; Winch 1987; L. Harris 2003). Unlike in the South, disfranchisement was swift and untroubled. In part, the quick removal of black voters was because of effective white supremacist campaigns and because northern states did not face the Fifteenth Amendment. But in the South, white supremacists also ran effective campaigns and found it relatively straightforward to sidestep federal interference. Rather, a main difference was that white supremacists in the North did not face significant opposition within their states. It was not that black Northerners acquiesced. Anger at disfranchisement energized the antebellum black convention movement. However, black voters were impotent to delay the reforms.

The disfranchisement campaigns in New York and Pennsylvania followed similar patterns to southern disfranchisement. The Democratic Party led the assault, while the opposition parties (first the Federalists, and then the Whigs) were divided over the issue (*Colored American*, October 10, 1840; J. Stanley 1969: 417). After a close election in Bucks County, Pennsylvania, in 1837, a group of

concerned white voters declared that "the high handed measure of negroes going to the election, ARMED WITH LOADED GUNS . . . require the most decided steps, in order to guard against a negro revolution" (*Harrisburg Keystone*, quoted in *Liberator*; November 17, 1837). A "negro revolution" was hardly on the cards.

Black voters were less than 3 percent of the electorate in New York State and Philadelphia. Nonetheless, propagandists painted a terrifying picture of the inevitable consequences of black voting. The *Doylestown Democrat* reported that Bucks County was already a "negro paradise" and that runaway slaves would flood in and take jobs, "unless we keep them out" (quoted in *Liberator*; September 1, 1837). Publicists also raised the specter of "intermixture," when black men's access to the polls would lead to access to white women (Field 1982: 36).

As in the South, black voters resisted. In Pennsylvania, rival black leaders put their differences to one side to publish an "Appeal of Forty Thousand Citizens Threatened with Disfranchisement" (1838). The appeal pointed out: "We are in too feeble a minority to cherish a mischievous ambition." It condemned white supremacists as hypocrites on the "intermixture" question, because they were more than happy to sign contracts with black laborers. It highlighted the sacrifices of black men in times of trouble, and their hard work in times of peace. Above all, the document appealed to democratic principles. Did white reformers want to deny " 'that all men are born equally free' . . . or to divide what our fathers bled to unite, to wit, TAXATION and REPRESENTATION?" (*Liberator*; April 13, 1838, p. 8).

The rhetoric was carefully crafted. But the problem was that black activists lacked power to back up their appeal. As in the post-Reconstruction South, black Northerners in the antebellum era were weak away from the ballot box. Tocqueville (1945, 1: 251) noted that if black men vote "their lives are in danger. If oppressed, they may bring action at law, but they will find none but whites among their judges." But unlike in the South, black voters in the North were weak at the ballot box, too. They were indeed "too feeble a minority." "Forty Thousand Citizens" counted for nothing in electoral terms. All they could do was appeal. Thus, white supremacists did not need to break down the black vote step by step. They barely paused for breath (with only one exception; see Lemons and McKenna 1971).

Early-Twentieth-Century Maryland

By contrast, when Maryland's General Assembly put disfranchising measures to the popular vote in 1905, 1907, and 1911, they were rebuffed on each occasion,

in large part because of black opposition. The Maryland disfranchising campaign is a particularly useful contrast because it was very much part of the southern movement. A former slave state, Maryland had the highest proportion of black voters (20%) of any state that did not impose disfranchisement (and a higher proportion than two states that did). In a rerun of southern campaigns, the successful Democratic gubernatorial candidate, Edwin Warfield, proclaimed in 1903: "This election is a contest for the supremacy of the white race" (Perman 2001: 233). The incoming Democratic state government subsequently imposed Jim Crow alongside attempts to remove black voters.

The failure of disfranchisement can partly be explained by the obstacles facing white supremacists. Maryland's original Declaration of Rights expressly forbade a poll tax. Moreover, because 15 percent of white Marylanders were immigrants, white supremacists found it difficult to frame a plan that targeted black voters alone. The Maryland League of Foreign-Born Citizens brought together at least nine ethnic groups in opposition to disfranchisement. Maryland's anti-Democratic voting bloc carried real power, and Republicans controlled the state government between 1896 and 1900 (Callcott 1969: 156–61). The Democratic Party was also somewhat faction-ridden. Some Democrats worried that the disfranchising amendments would centralize power in the state capital. Business interests threatened to oppose disfranchisement as a bargaining chip in their efforts to retain control over the lucrative oyster industry.

Yet similar obstacles were faced by white supremacists across the South. State Democratic Parties were invariably riven with faction, not least between black-belt and urban delegates. Anti-Democratic voting was common, too. More than one in five white Southerners voted against the Democrat Party at some stage in the late nineteenth century (Kousser 1974: 27). Indeed, the Republican-Populist victory in North Carolina served to empower the disfranchising campaign there.

Crucially, black voters in Maryland had significant power to continue to make their votes count and thus augment white dissent. It was not that black Marylanders were particularly prosperous (Fields 1985: 177; Fuke 1997: 335). But compared with the rest of the South, rural black Marylanders enjoyed a significant degree of economic autonomy. Before the Civil War, there were almost as many free blacks as slaves in the countryside (Berlin 1974: 354, 374). After Emancipation, there were disproportionately few black tenant farmers. Although landownership was not especially high, in many counties a typical black landowner held land in roughly equal proportion to a typical white landowner (Wennersten 1985: 378; Schweninger 1990).

By the end of the nineteenth century, almost half of black Marylanders lived in the relative security of cities. Already, by the outbreak of the Civil War, some 92 percent of African Americans in Baltimore were "free Negroes." After the war, local knowledge of the Chesapeake Bay helped them compete in the maritime and oyster industries (Beirne 1988: 336, 340). Indeed, their prowess deterred Irish and eastern European immigrants, the traditional antagonists of black workers. Black Marylanders' economic progress translated into a high literacy rate. Following a series of protests, enrollment at black schools increased tenfold between 1867 and 1900, and well over half of black males were literate by the end of the century (Thomas 1976: 386–88). Because Maryland joined the Union during the Civil War, black Marylanders also had a strong tradition of militia activity and were well-stocked with arms (Fuke 1997: 327–48).

Thus black Marylanders were able to withstand the first attempts to whittle down the black vote. In March 1901, the *Baltimore Sun* noted that black voters rallied to "retain their right to the franchise" more than illiterate whites. Faced with a complex new ballot, black attendance was high at night-time voter education classes. By the time the suffrage amendments were put forward, three-quarters of black voters were still able to cast ballots. In a letter to Booker T. Washington, local leader Harry Cummings wrote that the Maryland Suffrage League's success "is down to good, hard, and earnest work and we shall endeavour to reach every one of the 53,000 colored voters of the State and . . . instruct them how to vote" (Callcott 1969: 122). Thus, in alliance with white dissenters, black Marylanders were able to defeat the disfranchisement amendments.

Conclusion

The unfolding of events in the American South highlights the role of mass actors in democratic consolidation. In the first place, it affirms the work of scholars who identify the importance of popular approval of democratic arrangements. Southern white elites needed to foster widespread opposition to the principal of black voting before they could embark on disfranchisement. This was not a simple task. They achieved it by interweaving the issue of voting rights with the wider "Negro problem," not to mention class and gender hierarchies. Rising racism across the country meant that although white Americans in the northern states did not formally disfranchise their small black electorates, they did undermine black voting power and proved sympathetic to southern disfranchisement (King and Tuck 2007). In his study of democratic consolidation,

Diamond (1999: 68) suggests an "arbitrary" minimum figure of two-thirds support for democratic arrangements (see also Encarnación 2000: 495). The experience of the southern states and Maryland would suggest that this figure is about right.

The case of the South, though, shows that mass actors were important not only for their willingness to accept democracy but for their eagerness to protect it. Because the national state did not have watertight self-enforcing powers to protect black voting, African Americans took responsibility for enforcing Reconstruction arrangements.

Southern political elites did not attempt disfranchisement until the end of the century, once African American power had been undermined. Thus, the history of the South after Reconstruction suggests that elites restrain themselves from backtracking on democracy, not only because they fear the action of other elites or lack the institutional clout to do so, but because they fear that mass actors themselves will take action to enforce democracy, by force if needs be, against elite democratic defection.

This question of mass actors forcing elites to restrain themselves from backtracking on democracy may have wider applicability. For example, one might imagine that in some countries, such as the United Kingdom, public outcry would be sufficient to deter a significant rollback of democratic rights. But in other countries, such as Russia, this may not be the case. Furthermore, the U.S. experience suggests that in a consolidated democracy, vulnerable groups require sufficient social and economic power to defend their political rights. For all that the Reconstruction Amendments proclaimed a remarkable set of political and legal rights for former slaves, the amendments paid little attention to the question of economic or other resources, such as education, or the place of former slaves in the militia. In the post-Reconstruction struggle over the place of former slaves in southern society, this weakness beyond the ballot box ultimately opened the way to disfranchisement.

The U.S. case also throws up some paradoxes. In the first place, it highlights the ambiguous legacy of momentous events of democratic progress. Samuel Huntington (1996: 5) notes that "each of the first two waves of democratization was followed by a reverse wave" (see also Kissane and Sitter 2005: 184). In U.S. history, Reconstruction stands alongside the civil rights movement as one of the celebrated milestones in the expansion of democratic rights for African Americans. By broadening the scope of democracy to include black men, Reconstruction turned southern society upside down. However, Emancipation and Recon-

struction also engendered a powerful response from those desperate to return the South to right side up, by restoring antebellum racial, gender, and class hierarchies. In a sense, the seeds of democracy's reversal were embedded within the very institutional arrangements intended to create and preserve its expansion. The power of the reactionary response in the South is also a reminder that grassroots movements, even those working within a democracy, can be mobilized against the expansion of democracy (see Klarman 1994; Tuck 2003, chap. 3).

The timing of southern disfranchisement within the broader context of U.S. social and economic development is also curious. Numerous studies have made a link between the emergence of modern industrial "civil" societies and the establishment of democracies (Almond and Verba 1965; Linz and Stepan 1996b: 17; Morlino 1998). But in the United States at the close of the nineteenth century, this link was conspicuous by its absence. This was an era when the United States emerged with many of the hallmarks of a modern society—an era of spectacular industrial growth, urbanization, and bureaucratic expansion. It was even the dawn of the Progressive Era of social and municipal reform. Indeed, "southern boosters" (business and municipal leaders promoting the South to northern investors and onlookers), eager to embrace the benefits of modernization, proclaimed a "New South." But instead of producing or consolidating universal rights and freedoms, this new era witnessed a democratic reversal. In the American case, a flourishing civil society was for whites only (King and Tuck 2007). With regard to the present day, the reversal of American democracy in the late nineteenth century lends credibility to the warnings of scholars that newly established democracies are vulnerable, not just to a reversion to authoritarian rule, but to a narrowing of democratic rights. Indeed, the late-nineteenth-century South provides a compelling precedent for Samuel Huntington's (1996: 8) prediction that "threats to third wave democracies are likely to come not from generals and revolutionaries who have nothing but contempt for democracy, but rather from participants in the democratic process. These are political leaders and groups who win elections, take power, and then manipulate the mechanisms of democracy to curtail or destroy democracy . . . the problem is not overthrow but erosion: the intermittent or gradual weakening of democracy by those elected to lead it."

Finally, the reversal of democratization after Reconstruction has implications for predictions about the future of American democracy. Some scholars argue that recent developments in the United States portend another rollback of democratic rights for racial minorities. In particular, they point to the recent rise of

color-blind rhetoric in the judiciary and legislature, including the 1993 *Shaw v. Reno* decision that reversed minority-majority electoral districting (and thus weakened the power of the African American vote) (Kousser 1974; Klinkner and Smith 1999). Certainly, the restriction of African American voters in Florida during the 2000 presidential election seems eerily similar to the post-Redemption purging of thousands of black voters in that state. Moreover, the Voting Rights Act of 1965 would seem to be vulnerable, because many of its provisions are dependent on Congress for renewal.

Yet, the history of U.S. disfranchisement also gives some grounds for optimism. Although former slaves were abandoned by the national state and opposed by white supremacists, they were still able to defend their rights for a generation. At the dawn of the twenty-first century, despite the racially linked problems of poverty and unemployment and the continued blight of urban racial segregation, black Americans are much more powerful that their nineteenth-century counterparts. Compared with 1900, the average black income relative to average white income has doubled (T. Shapiro 2005). While most police forces were all-white in 1900, they are now integrated nationwide. Nevertheless, one lesson of the post-Reconstruction era is that even in a historical democracy such as the United States of America, there is no inherent reason to assume that the process of democratization will inexorably progress (O'Donnell, Schmitter, and Whitehead 1986).

CHAPTER SEVEN

Deliberation, Incivility, and Race in Electoral Campaigns

Tali Mendelberg

The troubled state of American race relations has been the subject of much hand-wringing for many decades. The color line has changed since W. E. B. Du Bois (1997) wrote about it, but it has not disappeared, and nor have its troubling consequences for democracy. One remedy to the problem, gaining increasing currency among researchers, policymakers, activists, and political observers, is civil dialogue. Some scholars and practitioners hope that more public discourse, characterized by civility and occurring across lines of race, will contribute to a climate of tolerance—a prerequisite for liberal democracy. Some of these calls are tied to a deliberative model that assumes (or at least hopes) that democracy can be greatly enhanced when people are encouraged to resolve conflicts through reason-based, respectful discourse. Increasingly, a remedy to the age-old problem posed for democracy by racial and ethnic hierarchy is to urge people to discuss the problem, and to do so with mutual respect.

In this chapter, I examine these hopes in the context of electoral campaigns. Elections are perhaps the most significant of any democratic institution. A closer look at how discourse about race unfolds during election campaigns, however, reveals that the hopes for civility are problematic. To be sure, under specific circumstances, elections can promote racial tolerance and rapprochement. In particular, they can prompt white voters to suppress their racial stereotypes and resentments when deciding matters of politics. The twist, however, is that election campaigns have this beneficial outcome not when the dialogue about race is civil, but when it seems to be uncivil.

I begin by describing the problem of race and then lay out the expectations of civil dialogue. In the heart of the chapter, I compare these expectations with the way that communication about race actually occurs, drawing on my research on race and electoral campaigns. I conclude with a revised set of expectations about the deliberative potential of elections.

The Problem of Race Relations

Race is perhaps the greatest of American divides. In their influential study of racial views, Lee Sigelman and Susan Welch summarized the nature of this divide as follows:

> According to the worldview of the typical black, significant racial discrimination persists and largely accounts for where blacks as a group stand today. As a remedy, government action is necessary, even though blacks themselves are seen as having gone a long way in helping their own cause. The prevailing white view of race relations differs dramatically . . . Because most whites perceive racial discrimination as rare, it is only logical that they are less likely than blacks to attribute socioeconomic differences between blacks and whites to situational factors . . . [and] it is hardly surprising that most whites oppose special government help for blacks. (Sigelman and Welch 1991: 165)

These divergent views of race and society make their way into party politics. As figure 7.1 shows, religion, region, and class all take a backseat to race as the chief structuring cleavage of American elections (Latinos hold views similar to those of African Americans, but not nearly with the same strength, uniformity and consistency) (De la Garza, Falcon, and Garcia 1996; Sears et al. 2000). Not included in figure 7.1 is the gender gap, but it is much smaller in every year than the racial gap (Mendelberg 2001, chap. 9). Figure 7.1 also shows that far from declining in influence over time, race is a fixture in the American political scene (Carmines and Stimson 1989; Huckfeldt and Kohfeld 1989; Valentino and Sears 2005). Not only is race a divide in politics, it is also a divide in civil society. Despite remarkable progress, overall levels of African American segregation remain quite high (Orfield and Ashkinaze 1991; Massey and Denton 1993; Welch et al. 2001). Residential segregation is mostly impervious to class differences among African Americans, is much higher for African Americans than for Asian Americans or Latinos, and is highly sensitive to the "black" appearance of the resident (Massey and Denton 1993; Farley and Frey 1994). Similarly, in marriage, the

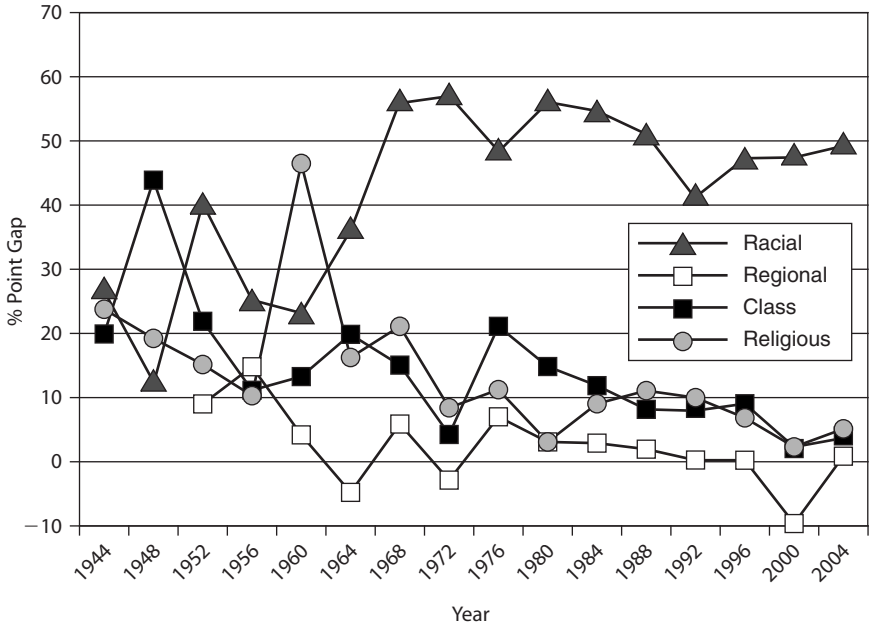

Figure 7.1. The Racial Divide Contrasted with Other Divides, Presidential Vote, 1944–2004. *Note:* Data are for major-party voters in the National Election Study. *Racial* = (% of African Americans) − (% of whites) voting Democratic. *Regional* = (% of Southerners) − (% of non-Southerners) voting Democratic. *Class* = (% of working class) − (% of middle class) voting Democratic. *Religious* = (% of Catholics) − (% of Protestants) voting Democratic. *Source:* Abramson, Aldrich, and Rhode 2007: 120.

lines of race are blurring primarily for Native Americans, Latinos, and Asian Americans, with African Americans remaining much more isolated (on average, 1.5% of whites, 4% of African Americans, 19% of Asian Americans, and 60% of Native Americans marry outside their group) (Mathews 1996; Pugh 2001).

The 2000 Census shows that during the previous decade, the residential segregation of African Americans eroded by only a small amount (Glaeser and Vigdor 2001). This racial divide in politics and society is partly fueled by—and, in turn, helps to maintain—whites' resentment about government efforts to assist blacks, and whites' negative, stereotyped views of African Americans (Sigelman and Welch 1991, chap. 3; Kinder and Mendelberg 1995; Kinder and Sanders 1996; Alvarez and Brehm 1997; Hurwitz and Peffley 1997; Gilens 1999; Gilliam and Iyengar 2000; Oliver and Mendelberg 2000; Sears et al. 2000; Mendelberg

2001; Welch et al. 2001; Valentino, Hutchings, and White 2002). Some commentators have gone as far as to suggest that the situation in the United States is as suggested by Andrew Hacker's (1995) book title: *Two Nations: Black and White, Separate, Hostile, Unequal.* While many would disagree with the stark nature of this summary, many would agree that race continues to be a source of troubling inequality and conflict in American politics.

A Remedy

Practitioners, activists, and policymakers are increasingly attempting to use civil dialogue to bridge the racial divide. Perhaps the best-known example is Bill Clinton's 1997–98 Initiative on Race, which he characterized as a "great and unprecedented conversation about race" meant to encourage tolerance and civility (*New York Times*, June 15, 1997). The National Endowment for the Humanities similarly sponsored conversations on American identity, focused in part on bridging the racial divide (Merelman, Streich, and Martin 1998). Local policymakers use deliberative interventions in situations of racial conflict (Cramer-Walsh 2004), such as in a highly controversial school desegregation case in New Jersey (Mendelberg and Oleske 2000) or in attempting to rejuvenate failing schools attended disproportionately by students of color in Chicago (Fung 2004). Activists, too, have looked with hope to public dialogue on race. In October 1998, for example, when several hundred students took over a University of Texas building to protest the *Hopwood* decision outlawing the use of race-based criteria in university admissions, they demanded that the university conduct "a series of town hall meetings." It is difficult to quantify the trend toward deliberative solutions, but it is hard to imagine that civil rights groups of the 1960s would have demanded town meetings. What is quantifiable is the sharp growth in civic dialogue groups devoted to resolving racial tensions or misunderstandings. Katherine Cramer-Walsh (2004) reports that approximately half of all existing race dialogue groups began after the O. J. Simpson trial and the Rodney King verdict, and counts groups in 266 cities in forty-six states and the District of Columbia. A chief mission of these groups is to help people "get along," in Rodney King's famous phrase—to enhance tolerance through civil discourse.[1]

These efforts certainly seem promising, or at worst innocuous. However, what really happens during public discussions of matters of race is more complicated, and more subject to failure, than many of these calls for dialogue recognize. Before scholars and practitioners of politics take up the call for more

civil dialogue about race, they must consider its contingencies and pitfalls. My aim here is to analyze how civil dialogue plays out during electoral campaigns. Such an analysis casts into sharp relief the problems and contingencies of civility. It reveals that campaigns can, in fact, increase racial tolerance and harmony. But campaigns do so not through civil dialogue, but through an exchange of views that violates the codes of civility.

A Civil Action

To many people, civility seems an obviously desirable quality of racial dialogue. Civility, in general, refers to courtesy, politeness, and consideration for the other (Sapiro 1999). The notion that people who speak in public forums should adhere to the codes of politeness has a strong normative force in American society. In this view, accusations of racism, even if they are accurate, erode the quality of democratic dialogue and interfere with the ability of American society to overcome its legacy of racism. In an award-winning book on race, K. Anthony Appiah puts this expectation as follows: "There is a great deal of angry polemic about race in this country today. Accusations of racism, warranted and unwarranted, abound. Rodney King, O. J. Simpson, welfare queens, quota queens, the bell curve—each of these conjures debates with a distasteful tone. In this respect, discussions of race are perhaps typical, since, as many observers have noticed, public debate on many questions has developed an uncivil inflection" (Appiah and Gutmann 1996: 179).

The argument that Americans engage in too many accusations of racism can also be found in scholarship coming from a very different quarter. Much of this scholarship is concerned with what it sees as a deterioration in the caliber of civil rights leadership, deterioration associated with the decline in civility. Some scholars point to the black power movement and the urban rebellions of 1965–68 as the beginning of the end of racial civility and the first link in the "chain reaction" leading to institutionalized racial conflict (Edsall and Edsall 1991: 48). Martin Luther King Jr. is held up as a laudable example of the color-blind and consensual style of black leadership common during the early 1960s (see Skrentny 1996); subsequent leaders representing the interests of blacks have performed much more poorly, some observers believe, because they have strayed from the vision of a nation in which "what blacks and whites have in common is more important than their differences" (Jacoby 1998: 6; see also Sleeper 1997). The empirical prediction implicit in some of this research is that whites will only re-

spond well to an exchange that they perceive as civil and that underscores the things that blacks and whites share, not to rhetoric that targets whites' racism.

A prominent example of this trend in scholarship is Stephan Thernstrom and Abigail Thernstrom's *America in Black and White* (1997), a major study of racial politics that consistently criticizes blacks' contemporary attempts to challenge racism. Some of the authors' criticism is directed at black citizens. The authors castigate a 1996 *Nightline* program for conducting an exchange between whites and African Americans in which many of the latter condemned what they saw as lingering racism in American society. This talk of continuing racism amounted to "a collective anti-white rant" (Thernstrom and Thernstrom 1997: 493). Along similar lines, a local protest in Washington, DC, designed to highlight the continuing racism in the lives of African Americans is condemned as "a bewildering distortion of the present." But the focus of much of the authors' critique of civility is the black civil rights leadership. Charges of racism, according to Thernstrom and Thernstrom, are "a staple of civil rights discourse" (498). Not only Al Sharpton's demagoguery is included as an example of uncivil, harmful discourse, but also the words of an NAACP spokesman who in 1994 criticized the disproportionate racial impact of a proposal to limit eligibility for Social Security and Medicare. Also included is the coalition that filed a lawsuit in 1995 against the New York Metropolitan Transportation Authority "charging that an upcoming fare hike discriminated against the 61 percent of bus and subway riders who were members of minority groups" (498). According to the Thernstroms, the past several decades do not provide any examples in which antiracist rhetoric led to progress in race relations.[2] In this view, by engaging in uncivil discourse about race, the civil rights leadership undermines tolerance, harmony, and understanding between African Americans and white Americans.

The argument that contemporary civil rights leaders are uncivil, and the corollary, that this incivility harms harmonious and tolerant race relations, can claim a degree of empirical support from research on the mass media and racial stereotypes. In their ambitious study of mass communication about race, Robert Entman and Andrew Rojecki (2000: 212–13) found that the media often portray prominent African American leaders as self-seeking, focused on narrow racial interests at the expense of the broader community, and too ready to rabble-rouse. These perceptions of incivility may be consequential for white citizens' political preferences. They may, for example, strengthen white citizens' opposition to welfare programs perceived as primarily benefiting undeserving blacks (see Bobo 2000, commenting on Gilens 1999). While the evidence that

black leaders are often portrayed as uncivil is compelling, however, there is only sketchy evidence about the impact of antiracist rhetoric on white citizens' views.

The findings discussed later in the chapter suggest that under certain circumstances, what many view as uncivil black leadership may in fact decrease the impact of white citizens' stereotypes of blacks and, in that particular sense, bring greater tolerance and harmony. Whether civil discourse breeds civility and tolerance, as some scholars and practitioners assume, is as yet unknown. But the evidence presented below implies that civil discourse is not necessary for tolerance. The process of communication need not match the desired outcome: uncivil discourse can generate more civility. A tolerant outcome, in fact, may depend on a process that may seem intolerant, discordant, calculating, and self-seeking—in a word, political.

Electoral Campaigns, Race, and Civility

I examine these conflicting predictions about civil discourse through the lens of electoral campaigns. Citizens' attention to public affairs reaches its peak during campaigns. So what elites say about matters of race is likely to carry particularly strong effects when a salient campaign is underway. As Larry Bartels (2000: 1) put it, "political campaigns are at the center of American democracy and of the ordinary citizen's connection with the democratic process. They should be our primary occasions for political education, collective choice, elite accountability, and democratic legitimation." To be sure, electoral campaigns are seldom, if ever, conducted to further the goals of tolerance and harmony. Still, campaigns may be among the most important and influential means of discourse about race in the United States. Specifically for the case at hand, campaigns can help us examine the particular claims about the nature and consequences of leaders' discourse on race.

Campaigns are clearly conducted for victory rather than virtue. Yet the recent literature on the impact of electoral campaigns shows that campaigns do affect people's fundamental views of politics and society. For example, whether political ads are positive (promoting the good qualities of the candidate) or negative (attacking the opponent's negative qualities) may affect citizens' feelings of cynicism and alienation.[3] Pursuing a different research question, Rahn, Brehm, and Carlson (1999) found, along similar lines, that the 1996 election increased citizens' general trust of others, their specific trust in government, and their sense of external political efficacy. Thus, even if elections are not designed by

the candidates to serve good democratic ends, they can nevertheless increase the kind of civic orientations that are consonant with tolerance and harmony—a general desire to work for common goals with others who are different.

If we project these findings onto the case of race relations, we might expect that some campaigns enhance tolerance while others work against it. Specifically, campaigns could, under certain circumstances, lead white citizens to decrease their use of racial stereotypes when making choices among candidates and policies. The burgeoning literature on racial stereotypes suggests that basic racial predispositions change very gradually, but their *impact* can vary a great deal over a short period of time (Kinder and Mendelberg 1995; Kinder and Sanders 1996; Gilens 1999; Mendelberg 2001; Valentino, Hutchings, and White 2002). Therefore, I focus here on the change in impact rather than in level.

This desired *result*, however, may or may not follow from a campaign *process* that is tolerant and harmonious. According to the assumption of Thernstrom and Thernstrom (1997) and others writing in this vein, leaders who speak of matters of race on the campaign trail are expected to maintain civility. Hostile expressions and derogatory labels will undermine, not enhance, tolerance. To the extent that such expressions are present in an election campaign, the campaign does not serve the purpose of improved race relations. The evidence below, however, suggests otherwise. The more effective way to combat racial stereotypes when they are aired during elections is to engage in a form of incivility—namely, to label the expression a form of racism. When political leaders use racial words to describe the content of a campaign message, they provoke large numbers of white voters to become more aware of their own racial stereotypes and to consider the message racist and thus illegitimate. White voters subsequently give their stereotypes less weight in their political choices—in their choice among candidates running in the election and in their choice between more and less vigorous policies to ameliorate racial inequality. The political behavior of whites then begins to approach that of African Americans, with greater agreement and harmony as the result. Thus the expectation that productive communication about race rests on civility misses the reality. In elections, it is uncivil discourse that best decreases the impact of racial stereotypes (for more detail on these findings, see Mendelberg 2001).

To promote these desirable effects, an election campaign has to feature both explicit unflattering messages about African Americans and a discourse that effectively counteracts them. The norm governing matters of race determines both whether white elites will cue white citizens' negative racial predispositions,

explicitly or not, and whether this communication is likely to receive an effective rebuttal. In addition, the nature of the party system determines whether elites attempt to communicate about race at all. Thus, we must understand both the impact of norms and of party strategy on racial communication and the dynamics of implicit versus explicit communication about race. And we must understand how anti-black communication is countered effectively in electoral campaigns, and under what conditions, before we can evaluate both the desirability of civility and the capacity of public discourse to enhance racial tolerance. I elaborate on this argument below.

Uncivil Processes and Civil Outcomes: A Theory with Three Variables

Three variables determine whether whites rely on negative racial predispositions during electoral campaigns: *racial norms*, *party strategy*, and *explicit communication*. To show how these variables work, I contrast two time periods in American history: Reconstruction, spanning the years 1864–76, and the contemporary civil rights era, beginning in 1964.

First, let us consider the variable of party strategy. Campaigns are conducted first and last to win office. Although they can bring about more tolerance and understanding, these come entirely as a side benefit, if they come at all. Campaigns do not feature much discourse about race unless at least one political party calculates that it is to its advantage to engage in such discourse. That calculation is not made unless there is salient racial conflict at the time, presenting the opportunity to capitalize on an emerging issue and turn it into partisan gain.

Racial conflict is often caused by a sudden and dramatic change in society's racial arrangements. Perhaps the most severe of these external shocks were Emancipation during the Civil War and the civil rights protests of the early 1960s. Each of these events created unprecedented conflict about the status of African Americans in society. In response to each change and its attendant conflict, one party aligned itself with greater equality or rights for African Americans (the party of the racial left), and the other party positioned itself in defense of the old order (the racial right). During the 1860s, the Republicans advocated expanded rights for African Americans, while the Democrats resisted that expansion. A hundred years later, the parties reversed positions.

Thus, with racial change comes conflict, and conflict prompts one of the two major parties to expect significant electoral gains by mobilizing anti-black views.

Repeated and prominent communication about race is not likely to occur during elections unless one party decides to "play the race card" and prime anti-black views as a means of propelling itself into office. Thus, white elites are not likely to communicate about race during campaigns unless they are presented with a controversy over the status of African Americans.

When faced with the strategic play of the race card, the party of the racial left has several strategic options:

1. *Mimic* the other party's communication, to show that despite its own relative leftward inclination on matters of race, it is no less sympathetic to white citizens' views than is its rival party.[4]
2. *Distract* white voters from issues of race with a competing issue, such as nationalism or class, and hope that voters' views on that issue override the impact of their negative predispositions about race.
3. *Ignore* issues of race, responding, if at all, only to nonracial aspects of the other party's appeals, and otherwise conducting the campaign as if the issue of race did not exist.
4. *Engage* the other party's appeal, challenging it as anti-black and a violation of white Americans' value of equality.

Which strategy most benefits the party of the racial left depends on another of the variables in the story: racial norms. If the norm is inegalitarian, as it was in most times and places in the nineteenth century, the strategic options open to the racial left party are limited. The *engage* strategy—discourse that attempts to neutralize racial stereotypes directly—is not a viable one. If it is to stand a chance of winning the election, the left party must show its adherence to the inegalitarian norm when that adherence is challenged. The *ignore* option, too, is likely to be ineffective when many white voters use the issue of race to make their decisions. The left party must have a powerful rebuttal to the rightwing party's racial appeals. What the left party can effectively use is the *distract* and *mimic* strategies. It can pursue the *distract* strategy to refocus voters' minds on another issue. It can use *mimic* in attempting to show, as directly as possible, that the party adheres to the inegalitarian norm. It turns out empirically that *mimic* is a common strategy, but because *distract* is effective when a salient nonracial issue exists, the party does not have to rely on *mimic* by necessity.

During the first half of the 1860s, the norm was decidedly inegalitarian, and the controversy over slavery had embedded itself in the party system. As the issue of abolition and citizenship rights became increasingly salient, and the Re-

publican party recruited larger and larger numbers to its ranks, Democrats increasingly turned to racial tropes about sex, violence, and work, suggesting that Republicans would invite blacks to engage in more of the first two and less of the last. The racial attacks were explicit. A Democratic National Executive Committee pamphlet suggested that Lincoln would repeal "all laws which erect a barrier between you and the black man," whom Republicans believed "is your equal, entitled to vote, hold office, sit at the same table with you, and marry your daughter" (F. Wood 1968: 19–20). The Democratic *Detroit Free Press* urged Lincoln to move to Haiti or Liberia for a "congenial atmosphere," and the *Chicago Times* recounted that, as the First Illinois Colored Regiment departed, "white women were there in attendance to bid farewell to black husbands, around whose necks they clung long and fondly. Black women, too, and men almost white, were locked in each other's arms" (F. Wood 1968: 19–20, 42–43). Just after Lincoln announced the Emancipation Proclamation, Democrats in Ohio warned about the loss of whites' jobs, adopted the slogan "the Constitution as it is, the Union as it was, and the Niggers where they are," and gained sufficiently in the next election that they were able to amend the state constitution to prohibit the entry of freed blacks to the state (F. Wood 1968: 22; Klinkner and Smith 1999: 61). The pamphleteer Van Evrie warned that blacks were prone to rape white women "on the dead bodies of their husbands" (F. Wood 1968: 28). The Democratic Party of the 1860s was clearly engaged in a strategy of explicit racial appeals.

Republicans moved inexorably toward the racial left as Emancipation became a reality and as the war's end made clear that a new racial order, of some kind, was inevitable; but many prominent Republicans nevertheless went along with the inegalitarian norm by denying the charge that they favored full—that is, social—equality. While many Republicans were sympathetic to blacks' claims for rights, many others opposed slavery and supported "Free Soil" as part of the notion of a "white man's country." The leading Republican of the 1850s, William H. Seward, argued that "the African race here is a foreign and feeble element, like the Indians incapable of assimilation . . . and it is a pitiful exotic unnecessarily transplanted into our fields, and which it is unprofitable to cultivate and the cost of the desolation of the native vineyard," adding in a Senate speech that "the white man needs this continent to labor upon" (Fredrickson 1971: 141). In a debate with Stephen Douglas, Lincoln infamously defended himself against the charge that he favored interracial sexual intimacy by turning the charge around and mocking Douglas as desiring it: "I have never had the least apprehension that I or my

friends would marry negroes if there was no law to keep them from it, but as Judge Douglas and his friends seem to be in great apprehension that they might, if there were no law to keep them from it, I give him the most solemn pledge that I will to the very last stand by the law of this state, which forbids the marrying of white people with negroes" (Holzer 1993: 189–90).

Many other examples of this type of rhetoric can be found, with Republicans attempting to show that the Democrats were, in their words, the real "nigger worshippers" (F. Wood 1968: 31). Republicans responded with a *mimic* strategy.

However, while Democrats escalated their explicit messages against black equality through the state suffrage referenda and state-level elections of 1866 and 1867, Republicans increasingly mobilized public support with anti-southern appeals. This is no surprise, given that the language of the Fourteenth Amendment itself emphasizes the concern with reforming the recalcitrant South. Of the amendment's four substantive sections, three discuss former Confederates and only one deals with equality before the law. Republicans' laudatory references to black soldiers' citizenly contributions to the war were accompanied by references to the contrast with the traitorous white South (see, e.g., Thomas Nast's drawing "This is a White Man's Government," showing a black man, representing freed blacks, sprawled on the ground as three white men representing the Democratic Party hold him down with their feet on his back, in *Harper's Weekly,* September 5, 1868). As Representative Josiah Grinnel said, "I will never prefer a white traitor to a loyalist black" (Fredrickson 1971: 184). Some Republicans viewed blacks' voting rights as a disgusting but necessary means of restraining the traitorous South; Republican member of Congress James Garfield wrote to a colleague "[I have] a strong feeling of repugnance when I think of the negro being made our political equal and I would be glad if they could be colonized, sent to heaven, or got rid of in any decent way" (Fredrickson 1971: 185). Republicans had to maintain a balance between alienating white voters staunchly opposed to social equality, and made nervous by Democratic appeals that political rights would bring this equality about, and their desire to implement political equality. Anti-sectionalism was a convenient way to walk the tightrope.

In other words, Republicans pursued a strategy of *distract* along with *mimic.* Getting tough with the South was the chief Republican theme in the late 1860s, and the rhetoric emphasized that black equality served as a means to that end. To be sure, anti-sectionalism was not *merely* a way to distract white voters from messages that denigrated blacks and their Republican allies. But it did also serve that purpose. The strategies of *ignore* and *engage* were pursued very little.[5]

When the norm is decidedly egalitarian, as it became increasingly during the 1950s and 1960s, the strategic options available to the party of the racial left are essentially the same—*engage*, *distract*, *ignore*, or *mimic*. The norm of racial equality does indeed remove the most extreme anti-black messages from the toolbox of the left party. A party seeking to bolster the status of African Americans no longer has to prove that it will safeguard the superiority of whites, so it has no incentive to play the race card explicitly. At the same time, an egalitarian norm renders *engage* into a viable strategic option. The increasing incentive to use *engage* signifies a meaningful way in which an egalitarian norm allows elections to bring about more tolerance and harmony in race relations. Only with an egalitarian norm, and only when the left party decides that it must counter the right's racial appeal if it is to win, will a genuine exchange take place. Only under these two conditions are whites' stereotypes aired in a prominent way during a campaign and dissenting voices heard against these views.

There is a twist to the use of *engage*, however. When the norm is egalitarian, the party of the racial right modifies its play of the race card. Recall that the race card is played only when racial conflict is salient. When the norm is egalitarian, yet salient racial conflict arises, the party that places itself on the racial right tries to mobilize white voters who resent the scope of change yet accept the basic precepts of the egalitarian norm.

Figure 7.2 illustrates both facets of whites' attitudes about race: the egalitarian norm on the basic principle of equality and, by contrast, the resistance of many whites to significant efforts to implement full racial equality. By the mid-1960s, northern whites overwhelmingly supported the *principle* of racial equality. Southern whites followed their lead a few years later. By the 1980s, the percentages supporting the principle of racial equality were so high that the question was no longer asked in national opinion polls.[6] Such numbers are extremely rare in the study of public opinion, indicating just how strong the norm of racial equality became.[7] High levels of support for the principle of racial equality can also be seen on "social distance" questions about social contact with African Americans (e.g., living in a neighborhood with some black families, having a black dinner guest) and the symbolic question of willingness to vote for a black candidate for president. The more the question highlights equality as a matter of abstract right, the more universally whites support it (see Schuman et al. 1997: 106–7, table 3.1B).

Figure 7.2 also reveals, however, the other side of the picture of whites' racial attitudes. Universal support for the principle of equality is not matched by uni-

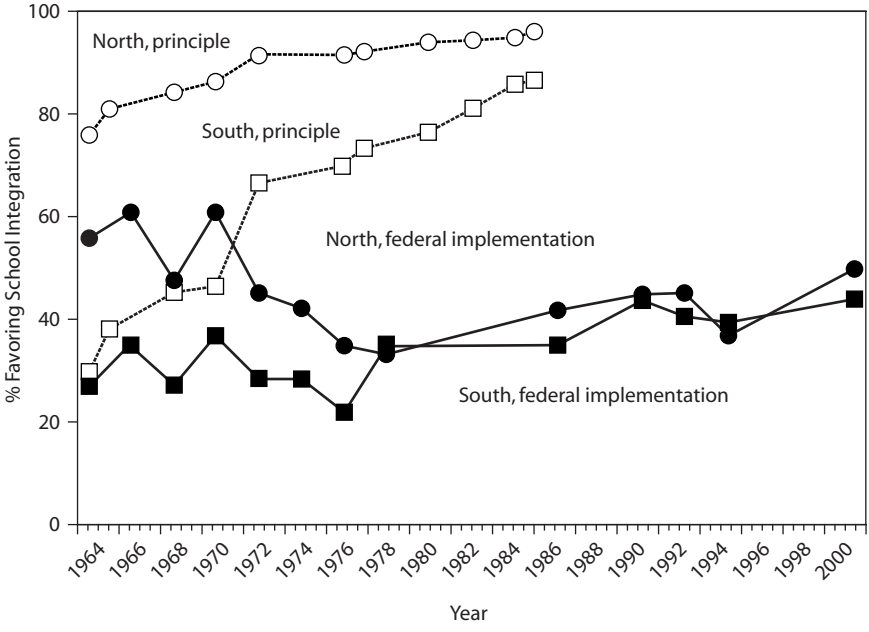

Figure 7.2. White Attitudes toward the Principle and the Implementation of School Desegregation, in the North and the South, 1964–2000. *Note:* The *principle* question is the National Opinion Research Center's, "Do you think white students and Negro/black students should go to the same schools or to separate schools?" Response options are "Same" or "Separate" (wording reported in Schuman et al. 1997: 104, table 3.1A). By 1985, the percentages supporting the principle of racial equality were so high that the question was no longer asked. The *federal implementation* question is the Institute for Social Research's, "Some people say that the government in Washington should see to it that white and black (1972: Negro) children (1964–1978: are allowed to go) go to the same schools. Others claim that this is not the government's business." Response options are "Government in Washington should see to it" or "[Government in Washington should] stay out of this area, as it is not its business" (wording reported in Schuman et al. 1997: 123, table 3.2). *Sources:* Schuman et al. 1997: 126; the 1948–2004 American National Election Study Cumulative Data File.

versal support for the *implementation* of equality. The figure shows whites' opinion on implementing school desegregation (which closely mirrors the question on principle, but mentions the efforts of the federal government).[8] While equality as a principle was becoming a near-universal norm of American society, equality as a government policy was becoming deeply contested as a political issue (Berinsky 1999, 2001). Clearly, many of the same white citizens who endorsed the notion that whites and African Americans should be treated equally also op-

posed the government's efforts to enforce equal rights and to assist blacks in gaining equal life chances.[9] Opposition to activist government, along with racial stereotypes, fears, and resentments, causes much of that resistance (Sniderman and Piazza 1993; Kinder and Sanders 1996; Alvarez and Brehm 1997; Bobo and Kluegel 1997; Sears et al. 1997; Gilens 1999; Mendelberg 2001; note that Sidanius and Pratto [1999] argue that an anti-egalitarian social-dominance orientation explains the resistance).

During egalitarian periods, the party of the racial right seeks to appeal to the unease of many white voters about the scope of racial change. Yet the party must remain within the norm, lest it lose support among the very voters it seeks to attract. It cannot appear to be racist, because racism has been discredited. When the norm prohibits whites from having rights as whites and forbids privilege that relies on race, no political actor can gain from seeming to defend white privilege as such.

These two conditions—the constraint of egalitarian norms and the opportunity presented by racial conflict and lingering racial stereotypes, fears, and resentments—prompt implicit racial campaign appeals. Parties often, but not always, construct implicit appeals to mobilize racial stereotypes, fears, or resentments. But intent is a cause, not a characteristic, of racial appeals. We cannot rely on intent alone to distinguish between implicit and nonracial appeals. I define an implicitly racial appeal as one that contains a recognizable, if subtle, racial reference. Implicit references to race can be visual or verbal. The modern norm of equality was established at the same time that television came into widespread use, so the party of the right has often made use of visual cues to construct its implicit racial appeals. Television allows a party to separate the visual and verbal content of its communication. It can introduce racially loaded images but avoid using racial words that would alert viewers to the racial meaning of the message. I found in a series of experiments that implicit racial campaign communication primes white voters' racial predispositions without voters being aware that they are responding to the racial content of the message (Mendelberg 2001, chaps 7, 8). Whites increase the weight they give to their racial stereotypes, fears, and resentments after exposure to implicit—but not explicit—campaign messages (for reviews, see Mendelberg 2008a, 2008b).

Thus, when an egalitarian norm coexists with racial conflict, whites' predispositions are likely to find expression during campaigns, as the party of the right tries to mobilize white voters discontented with racial change (threatened or actual). The implicit mode of communication complicates the attempt of the left

party to pursue the *engage* option. Because, as my experiments showed, many white television viewers do not recognize a racial message when it is conveyed in a highly implicit fashion, any leader who attempts to engage in a dialogue by offering a dissenting voice is pursuing a risky strategy. The left party is tempted, instead, by its other strategic alternatives: *distract* with the potent issues of class or sectionalism/nationalism, *ignore* the issue of race and focus only on miscellaneous nonracial issues, and *mimic* with implicit racial appeals of its own. Confronted with a rightwing party that cuts into its own constituency and mobilizes new voters with implicit appeals to race, the left party faces strong incentives to avoid *engage* and to proceed with some mix of (the implicit version of) *mimic*, *distract*, and *ignore*.

With an egalitarian norm and racial conflict, then, whites' stereotypes will be expressed, but the nature of that expression will make a real exchange of views unlikely. The counterstrategy of *engage* is likely to seem less attractive than the other alternatives, and few if any prominent voices will be heard presenting antiracist views. In fact, we may even see the reinforcement of racial stereotypes, fears, and resentments as the left party mimics the right in pursuit of elective office. Then, not only is the potential of elections to erode the power of racial stereotypes unfulfilled, but the election turns into an event that reinforces that power.

But all is not as bleak as this scenario suggests. The left party can successfully pursue the *engage* option, and has done so in the past. There are three ways that lead the left party to pursue *engage*. First, if the party finds that *mimic*, *distract*, and *ignore* are not working sufficiently well, and that pre-election polls show it is lagging behind the opposition, it may decide to pursue *engage*. (Consonantly, Lau and Pomper [2004] find that attack ads are more commonly used by candidates who are behind in the polls, who are attacked, or both.) Second, some members of the party may be guided by a moral precept that works against *mimic* and perhaps against *ignore* as well. These individuals, and organizations affiliated with the party, have a stronger or wider definition of equality than that contained in the norm of equality. Third, the party may include individuals or organizations with roots in the civil rights movement, or African American leaders, whose definition of equality tends to be stronger and wider than that of the white party elite. Any of these conditions is potentially sufficient to push the party toward *engage*. Even if the party as a whole does not pursue *engage*, its strategy may splinter, with at least one faction pursuing *engage*. Under any one of these three conditions, the dialogue can begin.

However, the problematic aspects of civility now become clear. If the proponents of civility are correct, then a campaign lacking in civility cannot bring racial tolerance and harmony. Yet it is the reference to racism that creates an exchange of views on matters of race during campaigns. The exigencies of party strategy often produce a widely heard rebuttal only when African American politicians and leaders, who often occupy the leftmost region of the American political landscape, enter the discourse. And they rely on the kind of language forged during the civil rights movement to critique racial hierarchy—language that fueled protests and demands for significant change. When an implicit appeal is challenged, it is challenged with language that evokes the long history of racism and connects the appeal to that history. It is rendered into one more link in the long chain of racial oppression. I call this rhetorical form the *black protest strategy.*

This strategy, I have found, is highly—and perhaps surprisingly—effective. It may surprise because it can work even among people who believe that discrimination is a thing of the past, who feel that African Americans are lazy and should advance on their own efforts more than they do, and who are not sympathetic to the notion that white leaders today may be continuing to practice a form of racial injustice through campaign messages. The black protest strategy can prompt people with these beliefs to recognize the racial element in the campaign message and in their own response, to consider the possibility that this element lies outside the norm, and to inhibit their racial response to the message.

A Closer Look at the Dynamics of Modern Campaigns

I summarize here several findings in my research to illustrate these points for the egalitarian era of post-1964, beginning with 1988.[10] In early June of 1988, the presidential campaign of Republican frontrunner George H. W. Bush found itself seventeen points behind Democratic frontrunner Michael Dukakis. Lee Atwater, Bush's chief campaign strategist, who cut his political teeth in the 1970s running implicitly racial campaigns for former segregationist Strom Thurmond of South Carolina, orchestrated an implicitly racial strategy for the ailing Bush campaign. For the rest of the campaign, especially during mid-June and even more so in October, the Bush campaign publicized the case of William Horton Jr., an African American man convicted of murder, sentenced to a Massachusetts prison, and released on weekend furloughs under a program instituted by Governor Dukakis's predecessor. On one of his furloughs, Horton escaped and assaulted a white couple in their home. The Bush campaign and the Republican

National Committee told the story of Horton through speeches by the candidate, television ads, and vivid mailings, arguing that Dukakis had refused to end the furlough program and should therefore be viewed as a misguided and extreme liberal. The news media picked up the story and disseminated it widely. As constructed by the Bush campaign and conveyed by the news media, the message highlighted Horton's image. Yet for nineteen of the twenty-two weeks that Horton received attention, hardly anyone mentioned his race verbally, or used any other racial word in connection with his case. While his race was everywhere to be seen, it was nowhere to be heard.

On October 21, that implicit strategy was put to an end. Jesse Jackson did so by challenging the Horton message as an appeal that used a black criminal to rile whites' racial fears and stereotypes.[11] Jackson was, at the time, the preeminent civil rights leader, a public figure who had risen to prominence because of his association with the cause of black equality. Yet during the primaries, Jackson had emerged as Dukakis's main challenger for the Democratic nomination, running well even among white voters. Jackson's rhetorical challenge to the Horton message came from the black protest tradition in which he was steeped.[12] Two days later, Lloyd Bentsen, Dukakis's white running mate, seconded Jackson's accusation of racism against the Republican Party and the Bush campaign.

The reception to the accusation of racism ranged from skeptical to hostile (except in the black press; see Kinder and Sanders 1996). The news media treated the charge of racism as yet another sling of mud in a distastefully dirty campaign. Every television news segment broadcast about Horton treated the accusation as an instance of negative campaigning or covered it as a strategic, calculated move (Mendelberg 2001: 148, table 5.1).[13] Nevertheless, more important than the skepticism is that for the remainder of the campaign, the racial elements of the Horton story were no longer conveyed implicitly. While Horton's image was still widely broadcast on television news, it was now accompanied by the Democratic accusation of racism and a verbal description of Horton's race.

Because the 1988 presidential campaign was sharply divided into implicit and explicit phases, I was able to estimate the impact of the implicitly racial message separately from the impact of the explicitly racial message. My analysis made use of the National Election Study's large random sample of white voters. I estimated the impact of voters' racial resentment on their pre-election evaluations of the candidates.[14] Because respondents are randomly assigned to date of interview, I was able to make use of a quasi-experimental design to find out the ex-

tent to which the implicit and explicit phases primed whites' racial predispositions (Mendelberg 2001, chap. 6).

The results show, first, that the implicit phase was highly effective in priming racial resentment, to Bush's advantage. When the Bush campaign initiated its "October offensive," the networks obliged with frequent showings of Horton's image on the evening news. Just as the October offensive began, the impact of racial resentment on white voters' choices increased sharply: the more resentful, the more inclined to support Bush, and much more so than in September. However, on the day after Jackson's charge, the impact of racial resentment declined sharply, and Bush lost support among white voters.[15] As long as the Republicans' Horton message was conveyed implicitly, racial resentment played a large role in white's decisions; but after the racial message was rendered explicit by Jackson's charge of racism, voters' racial resentment lost its power. Jackson's charge was effective. Of particular importance, Jackson's charge had an effect on resentful white voters, seeming to prod them to reexamine the basis for their political choices—a reexamination that is arguably a mark of tolerance.

Just what was going on inside the minds of these white voters is difficult to say. I therefore conducted an experiment to try to find out what mechanisms might lead resentful whites to become aware of the racial elements of a message and to question their own racial response (Mendelberg 2001, chap. 8). The norms experiment was conducted with a random sample of whites living in New Jersey. First, subjects (who had been interviewed by phone in advance) were presented with a computer display that showed their views on "ethnic relations" in relation to the Democratic party (placed on the left), the Republican party (placed to the right of the Democratic party), and the Ku Klux Klan (placed on the far right). This norm display was designed to manipulate voters' perception of their standing relative to the norm of equality. Half the voters were randomly assigned to the *extreme* condition, in which their own views were placed just to the right of the Republicans, with the KKK as the next reference group on the right. The other half was assigned to the *mainstream* condition, placed between the two parties. Then the participants were randomly assigned one of several manufactured television news stories. In all versions of the news story, a gubernatorial candidate criticized welfare programs. In one version, his criticism was accompanied by images of African Americans who received welfare, but included no racial words; this was the implicit message. In a second version—the explicit message—the same criticism and images were joined by the words "African Americans." Thus, the messages were identical except that the explicit message

verbally targeted African American welfare recipients. Finally, the subjects in the experiment answered a series of questions on their political opinions, their emotional reactions to the norm display, and their perceptions of the message.

The norm display did not affect everyone in the same way. However, those who did feel upset by their norm placement ended up rejecting the implicitly racial appeal and questioning their own response in the process. Not only people relatively low in racial resentment, but highly resentful people, too, rejected the Republican candidate who engaged in an implicitly racial appeal—if they were emotionally upset by their normative placement.

In addition, those who classified the explicit message as "racial"—over half of those exposed to that message—rejected it and the candidate who used it, especially if they were resentful.[16] Resentful whites who saw the appeal as racial not only tended to reject the candidate, but also moderated their opposition to egalitarian race policies (such as affirmative action) to a significant extent.

It seems, then, that the black protest strategy works during election campaigns, in part by getting resentful whites to reexamine their views on race. That the black protest strategy succeeds even outside its natural audience of unresentful voters implies that the prediction that dialogue on race must be civil in order to benefit relations between the races stands on weak empirical ground. In fact, the way a campaign provides for the communication of stereotypes, fears, and resentments *and* for their rebuttal almost guarantees that the civility expectation will be stretched and perhaps violated. The findings on the 1988 presidential campaign discussed above suggest that when a prominent civil rights leader calls attention to whites' racism, he can prompt a decrease in the impact of whites' stereotypes and bring white voters closer in their behavior to black voters—even if the media coverage casts the discourse as uncivil. Of course, it is quite possible that had the media covered the accusation as a civil exchange, public response would have been still more positive. That black civil rights leaders can succeed despite the media's coverage does not mean that the media do not inhibit their effectiveness. Still, the contention that black protest erodes civility does not square with a much more complex reality.

The more contemporary case of Barack Obama's presidential campaign in 2008 illustrates some of these dynamics. This is not a surprise, given that the racial fundamentals outlined in figures 7.1 and 7.2, and the patterns of racial inequality and division discussed above, have not altered in the past decade. Obama's candidacy represented by far the most successful political candidacy of

any African American, but this does not mean he was able to avoid race (*ABC News*, June 4, 2008). Obama faced not only the usual potential difficulties of a Democrat representing the party of the racial left, but the additional difficulties of running as an African American. He responded by pursuing all four of the strategies outlined above, at different times during his candidacy. Most consistently and throughout the campaign, Obama's team pursued a strategy of *distract*, focusing on the nonracial issues that appeared likely to be his strong suits—focusing, especially, on Americans' economic difficulties, a time-honored *distract* issue for the party of the racial left (*Washington Times*, August 27, 2008; *USA Today*, February 9, 2007; *Wall Street Journal*, August 2, 2008). As long as he could, and for most of the campaign, Obama pursued *ignore*, with subtle invitations to the mass media to portray his candidacy as post-racial and his persona as transcending race (*New York Times*, November 30, 2007; *Boston Globe*, August 19, 2007). When the Reverend Wright controversy flared, and Obama was linked with his controversial and racially outspoken black pastor, Obama at first ignored the matter (*MSNBC*, March 18, 2008). When the scandal refused to die, Obama abandoned *ignore* and took up *engage*. He did so with remarkable eloquence and unusual depth, presenting a strong defense of his racially liberal vision of the country and its racial problems (*Time*, March 18, 2008). *Engage* seemed to have worked well for Obama at this point, as public opinion warmed rather than cooled toward him (*CNN*, March 21, 2008). Another use of *engage* was Obama's response to a John McCain television ad questioning his ability to lead, in which Obama's image was juxtaposed with irrelevant visuals of young, attractive blonde celebrity women—potentially reprising a similar ad attacking Harold Ford, a black Democrat, in his run for the Senate from Tennessee, that used a sexually suggestive visual of a white woman in an implicit appeal to racial stereotypes of blacks' sexuality and to whites' age-old fears of sexual threat from black men (*New York Times*, July 31, 2008). Obama immediately reacted to the McCain ad by asserting that it was designed to remind voters, to Obama's detriment, of his race (*ABC News*, August 1, 2008). Finally, while Obama's use of *mimic* was limited, it was indeed there, in his occasional call for black fathers to take more responsibility for their families (*New York Times*, June 16, 2008). It is impossible to know without rigorous study which of these communication strategies were effective, but it is clear that Obama's case demonstrates the same underlying racial patterns and the same set of communication strategies as those witnessed in the past.

Discussion and Conclusion

The civility assumption informs a variety of writings on racial politics and a range of well-meaning reform efforts by practitioners. When it comes to electoral campaigns, however, the prediction that racial tolerance rests on civil discourse fails to find support. The reality of racial politics is much too complex to sustain it. I offer here some implications for the civility assumption, for deliberative democracy more generally, and for racial politics.

Campaigns and the Possibility of Dialogue

The civility assumption ignores the fact that whether dialogue occurs is highly contingent. The conditions that lead whites to communicate about their racial views during campaigns are not the conditions conducive to dialogue and reflection. Racial communication does not occur during elections unless there is salient racial conflict. With such conflict, the parties diverge on the issue of race, and the rightwing party plays the race card by priming voters' stereotypes, fears, and resentments. That racial stereotypes are expressed in campaigns under the auspices of racial conflict makes trouble for the expectation that stereotypes can be rebutted politely. Campaigns are often about interests and power, not only—or even at all—about reflection and openness to other views. The most extreme example of this considered here is the case of the post-Reconstruction elections in the South, which imposed the white majority will onto a disadvantaged black minority, robbing African Americans of hard-won social and economic progress and political rights.

Still, campaigns do provide an opportunity for a specific type of dialogue about the nature of racism. With a norm of equality, when whites express racial stereotypes, these views do encounter a strong and widely disseminated dissent. When this kind of dialogue takes place, campaigns can decrease the extent to which white citizens rely on their racial stereotypes, fears, and resentments in making decisions about politics. The discourse of campaigns may not be deliberative, but under specific circumstances it can lead to an exchange about deeply conflicting and intolerant views. The consequence is an increase in racial tolerance.

Those who wish to actualize the potential for beneficial race relations in political campaigns should also be aware of the important distinction between implicit and explicit expressions of stereotypes. Under the current norm of equality, the implicit type is much more likely to occur, but this type of expression is not conducive to fruitful dialogue about race. Rendering implicitly racial ex-

pression into its explicit form—that is, alerting whites about the racial content of the message—may initiate a process that weakens the force of stereotypes in politics.

The civility assumption's focus on consensus is therefore misguided (for an incisive critique of consensus, see L. Sanders 1997). An exchange leading to tolerance does not require the political parties to agree on matters of race. Although, in the long term, it would be optimal for the parties to agree to an effective program of full racial equality, thus removing issues of race from politics, this has never happened in American history and probably will not happen for a very long time. Instead, the party of the racial right can continue to differentiate itself from the party of the racial left, but express its conservatism in antiracist ways. The kind of antiracist rhetoric that fits with a right-leaning program consists of messages that criticize a strong federal government and advocate local control and individual responsibility, but do so using counter-stereotypical references in place of stereotypical or ambiguous ones. In one of my experiments with white Michigan voters, when I showed a randomly chosen group a conservative message that criticized welfare recipients and in which all the recipients were white, they relied on their racial predispositions much less than did people who saw the same anti-welfare message with African American welfare recipients (Mendelberg 2001, chap. 7). Thus the party of the right can make a relatively easy move toward more deliberative elections by engaging in counter-stereotypical communication.

Civility

I have been treating the black protest strategy as an obvious violation of civility. However, let us consider the implication of the finding that this strategy actually leads to the kind of self-reflection and tolerance that practitioners of deliberative efforts seek to encourage among citizens. In my view, this finding implies that we should reexamine the meaning of civility. If a narrow definition of civility leads us to reject the black protest strategy as illegitimate, even as we find that the effects of the strategy are deliberatively desirable, then we should redefine the meaning of civility to include some protest forms of discourse.

If we examine meanings of civility across time, we learn that the notion of civility has often been used in part as a way of maintaining social hierarchy. Virginia Sapiro (1999) shows that codes of civility typically prohibit certain actions from occurring in public and relegate them to the private sphere. The actions that are required to remain in the private domain depend on race, class, gender,

and other markers of hierarchy. Historians of the American South, for example, have shown that violent vengeance brought honor and social esteem to white men but punishment to African American men (Fischer 1989). White men who lynched African Americans at the close of the nineteenth century were considered highly civil; the act was perceived by most whites as a defense of the most vulnerable and cherished members of the white community (women) against what whites perceived as the extremely uncivil transgressions of the racial order by black men. Violent revenge was a mark of civility for those in privileged racial (and gender) categories, but a mark of incivility—a threat to the social order—for those in subordinate categories.

Historical work also suggests that calls for civility are most insistent when challenges to the social order are most feared. Sapiro (1999) finds that during the nineteenth century, people who occupied lower strata of society were expected to keep their discontents to themselves, not express them in the public sphere, and certainly to keep them out of political institutions. Codes of civility were instrumental in maintaining the social order in the face of rapid economic and geographic change. As Sapiro (1999, 11) puts it, "civility facilitates communication, but it can also choke it off, especially among those who are of relatively low status or those whose communication might call particular attention to themselves or their needs."[17]

In his account of the sit-in movement in Greensboro, North Carolina, William Chafe (1980) notes that the protest directly targeted the constraints of civility. Civility was perceived by many African Americans to be among the most powerful means of keeping their claims quiescent, and thus became an obstacle to overcome. The requirements of civility can relegate challenges to racial hierarchy to the category of behaviors to be controlled and circumscribed. When these behaviors do make their way into the public sphere, the requirements of civility invite many to castigate such behaviors as a violation of norms of public conduct, ranging in severity from rude to uncivilized to outright barbaric.

Theorists who recognize the antideliberative effects of civility make room for uncivil discourse. "Both in a public forum and in everyday talk, there are justifiable places for offensiveness, non-cooperation, and the threat of retaliation—even for raucous, angry, self-centered, bitter talk, aiming at nothing but hurt," Mansbridge (1999: 223) argues; "subordinates sometimes need the battering ram of rage."[18]

But while notions of civility lend themselves to authoritarian uses and can inhibit the expression of grievances by disadvantaged groups, some form of civil-

ity is necessary for communication, including democratic deliberation. The key is for disadvantaged groups not to be penalized as uncivil for the mere attempt to challenge practices and messages that disadvantage them (for a similar point, see I. Young 1996; L. Sanders 1997). When African American leaders criticize a campaign message on the grounds that it perpetuates racial hierarchy, they are engaged in protest and are likely to face condemnation for uncivil behavior. Certainly that was the case with Jesse Jackson in 1988, whose charge of racism was covered by the mainstream media as yet another episode of dirty campaigning. In other instances of challenges to white elites' discourse (e.g., that of Michael Huffington during his California senatorial campaign in 1994; and, outside the campaign context, of New York's mayor Rudolph Giuliani in 1998), the charge has always been highly controversial and strikes many as uncivil (Mendelberg 2001: 100). Yet this kind of protest is actually to the benefit of racial democracy. In fact, protest and other forms of action deemed uncivil are often most powerful when they reveal implicit meaning.

An instructive alternative to the concept of civility comes from the work of Patricia Gurin.[19] Her brief on behalf of the University of Michigan in the *Grutter* case argues for the university's affirmative action practices in part on the grounds that universities with higher proportions of racial minorities produce more informal social interaction and more effective classroom learning about racial diversity. Most relevant here, she argues that affirmative action produces a crucial benefit—what she calls "compatibility of differences." This is the perception that racial and ethnic groups share not only basic values but also an "understanding of the potential constructive aspects of group conflict, and belief that differences are not inevitably divisive to the social fabric of society." Civility advocates tend to home in on the former and neglect the latter. Gurin's contribution is to pair the two and produce a synthetic whole.

As mentioned earlier, civility is a cousin of tolerance, and as we probe civility we are also led to unpack tolerance. As Wendy Brown (2001) argues, to tolerate means to suffer something that one would rather not suffer, something that remains on the outside looking in. It is the act of the powerful, whose position bestows on them the automatic privilege of acceptance by others. Tolerance does not promote genuine understanding. A more transformative version of deliberative democracy aims not for tolerance but for mutuality, reciprocity, altered values (S. Rosenberg 2007). Other versions set the bar lower, either out of a pragmatic calculation of what is possible or because they seek to optimize individual rights or are suspicious of the strong hand of public institutions. The

problem with these other versions is that by expecting mere tolerance, they stand to perpetuate inequality and undermine the full democratic potential of deliberation.

Deliberative Democracy

Although this discussion has focused on empirical scholars and practitioners, it also has implications for more theoretical treatments of deliberation. Deliberative theorists say that democratic discussion must entail openness to ideas with which we disagree, even if we disagree vehemently. They urge us to enter into the discussion intent on listening as well as talking. In the words of Simone Chambers (1996: 119), "to communicate means that we seek to understand and convince; to be rational means that we offer reasons that can be understood and can convince; to be in agreement means that we understand each other fully and have been freely convinced." A deliberator must not deliberate without also seeking to understand the other side.

But in politics, speakers often seek to convince much more than they seek to understand. Or, if they seek to understand, they do so only strategically, to better argue against the other side.[20] And when they seek to convince, they often do not seek to convince the other side but rather a third party, one capable of furthering their side in the political struggle. In the world of politics, democratic discussion is often more competitive than communal, more conflictual than consensual (on this point, see Walzer 1999; Karpowitz 2006).

This does not mean, however, that deliberation is an irrelevant ideal, even in the most conflictual of our political institutions—the electoral campaign. We should recognize, however, that meaningful deliberation in a conflictual situation does not require that participants "seek to understand" or offer logical reasons, or that they end up understanding "each other fully." Rather, it requires more, rather than less, partisan competition, one that equalizes the ability of marginalized voices to be heard, loud and clear. Deliberation and competition do not necessarily exclude each other; under certain conditions, they can reinforce each other. The black protest strategy has shown us one way in which this is achieved—and not only in the person of the now-beatified Martin Luther King, but through the example of some of the civil rights movement's controversial heirs.

In addition, thinking seriously about racism and deliberation invites us to treat with skepticism any model that does not consider at length how resources can be distributed equitably in preparation for deliberation. Michael Brown

et al. (2003: 32) argue that racial equality requires the government to play a key role in addressing "the accumulation of economic and social advantages in white communities, and the concomitant disaccumulation of social and economic capital in communities of color" produced by markets, private institutions, and the government itself. It is the accumulation of advantage and disadvantage, and government's necessary role, that deliberation models must address, and do so in practical terms. Of course, all models of deliberation posit such equity, but the positing is usually done by assumption—the deliberators have equal resources, because they must do so for the model to work. How deliberators obtain these resources is not well explored (see Mendelberg and Oleske 2000). The black protest strategy is one way of cleaving open this closed circle. If it leads white voters to lessen the weight given to negative racial stereotypes and resentments in making policy choices, then government may be more likely to consider policies designed to ameliorate racial inequality. These policies, in turn, can equalize the resources needed for effective deliberation. If we are truly serious about equalizing resources for effective deliberation, we must offer realistic ways to achieve that equalization. Interestingly, discourse itself contains a partial answer—some forms of discourse, such as the black protest strategy, can break the closed circle.

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PART 3

Federal Institutions, Race & Democratic Reform

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CHAPTER EIGHT

Democratizing Authority

The Multiple Motives behind Black Police Appointments in the Twentieth-Century United States

Daniel Kryder

One reason the United States emerged triumphant from the bloody twentieth century was that its authorities managed to gradually democratize a multiethnic society while effectively waging a series of major wars. Conflict adjustment mechanisms were crucial to this process. This chapter investigates the very uneven history of racial integration in police forces as one local conflict adjustment process that reflected and contributed to the macropolitics of American democratization and state-building. Black police personify the concurrent evolution of mechanisms of political incorporation and coercive control that are fundamental to all developing polities. I report the research required to understand the causes and consequences of black police appointments from 1900 to 1970. The primary finding is that major wars, and the social and occupational dislocation they produced, modestly accelerated local black police appointments. An examination of the political discourse surrounding such appointments clarifies the logic linking them to war. Far from pursuing anything approaching "integration," white officials appointed small numbers of these new police to auxiliary assignments and restricted their powers. Thus, the multiple political processes that produced these appointments constrained the numbers and authority of minority police, which in turn helped to fuel the northern and southern racial violence of the 1950s and 1960s. This focused account of twentieth-century race politics suggests a sequence of causality that begins with national-level events—namely, the world wars—and traces

the precise mechanisms by which wars caused municipal-level black police appointments. The resulting underemployment of black police then allows for an analysis of the effects of largely white policing systems on regional and national events: the civil rights protests of 1955–65 and the urban riots of 1965–70.

Black police exemplify a core tension of political development in U.S. and all national politics: the requirement that a political system balance mechanisms allowing for self-expression and participation with institutions promoting stability and public order. This view of political development as nation-building, as raised by Desmond King and Robert Lieberman in chapter 1, has at least two fundamental components: first, democratization, the standards and procedures and norms governing voting, participation, and decision-making; and second, institution-building, the creation of authority, laws, and administration as a means for achieving order and predictability through bureaucracy and, for example, policing. One strain of democratization studies investigates how different nations deal with these two aspects of politics in various ways and in distinctive event sequences. Nations then face various problems caused by the way in which the politics of reform plays out, since the two components may not fit together well. For example, when authoritative institution-building proceeds too rapidly, ahead of other aspects of political and social change, it may create widespread resistance, such as movements calling for additional democratization, or complaints of inequality related to restrictions on participation and governance based on group or racial characteristics.

This perspective underscores the fact that the slow, three-hundred-year process by which the American polity extended full citizenship rights to African Americans has proceeded in parallel with the refinement of a social-control dimension, which has not been fully studied or integrated into the popular or academic understanding of American political development or of civil rights history; both literatures have focused more heavily on claims for political and civic inclusion, patterns of participation, social mobilization, and lawmaking. But political development has meant not only a gradual democratization of this polity but also the extension and reform of publicly governed mechanisms of social control.[1] One might summarize this problem as the development of authoritative structures to accompany and balance democratic processes. Black police personify this problem. Because this single reform can address both of these fundamental imperatives of nation-building, African American demands for black police may be more likely to succeed when they occur at the same time that a city's officials are searching for ways to legitimate their police authority.

The research presented here concludes that there may be multiple motives to what appear to be democratizing reforms, and that egalitarian demands succeed in this policy sphere when they overlap with authorities' interest in such reforms for other purposes.

In the United States, as in any multiethnic society where one group dominates another, political development that aims at equality and democratization requires, first, the transfer of the task of policing and punishment from private agents to public officials, then the insulation of public offices from interested factions or political machines, and finally, the full integration of the minority into a professionalized police force. The police are at the crux of political transitions in polities as varied as South Africa, post-Taliban Afghanistan, or post-Saddam Iraq—where police units are common targets of insurgents seeking to disrupt institution-building. Creating a representative civilian police force is a major component of building and transforming states and nations. In a similar fashion, for most of American history in the South, where whites punished even minor transgressions of law and etiquette by blacks, the policeman stood not only for civic order but also for white supremacy and its social customs. Because of this, court officials generally supported a policeman's claims even when the facts vindicated the accused, or even when the crime was clearly a product of police brutality or a white person's aggression. When Gunnar Myrdal (1944, 1: 535–36) examined policing as it related to race relations just prior to World War II, he concluded that "the Negro's most important public contact is with the policeman. He is the personification of white authority in the Negro community."[2] In what must be seen as a crucial indicator of both democratization and political control, over the last century, at various times and in widely dispersed places including the South, American cities hired black policemen—both to make neighborhoods safer and to make black-white relations more stable and amicable.

Policing Racial Unrest during Wars

For several reasons, the broad contours of modern American history suggest the need for a closer examination of the nexus of war, race relations, and policing.[3] To begin with, police, and particularly white police, have played critical roles in two of the most important episodes in the post–*Brown v. Board of Education* (1954) phase of American racial politics. The southern civil rights movement's anti-segregation campaign of 1955–65 and the urban riots of the late 1960s gained their momentum from unrest in which white peace officers played cen-

tral roles. "With a few exceptions," historian Robert Fogelson (1968: 217) writes, "the nineteen-sixties riots were all precipitated by police actions." Oddly, most of these extraordinary cases of collective violence were caused by fairly ordinary actions. The Chicago riots of 1966 started after police shut off a few fire hydrants on a hot summer night. Typically, rumors of excessive force in arrests or other minor police actions caused crowds to gather around isolated units; blacks hurled stones, bricks, or invective; and police reinforcements arrived, which only angered the crowds even more. Eventually, these standoffs between African American pride and police authority spiraled out of control, and police remained a primary target of crowd violence throughout the major incidents, although deliberate murders of police by crowd members were very few. Personifying white authority in the inner city, cops were thought to be corrupt, alternatively brutal to and indifferent to city residents, and virtually immune from traditional forms of institutionalized complaint or group pressure (217). If, in this period of unrest and the white flight and backlash politics with which it is often associated, police signaled an end to the promise of racial democratization and integration, the earlier phase of the generation and heyday of civil rights activism in the South stemmed directly from white police repression. As McAdam (1982: 174) put it, the tactical genius of the southern insurgents was to induce their opponents to "disrupt public order to the point where supportive federal intervention was required." Given the importance of white violence in the movement's crusade to secure the sympathetic public's attention, congressional legislation, and executive branch intervention, Martin Luther King Jr. famously chose Birmingham and Selma, Alabama, for purposefully provocative campaigns in 1963 and 1965. The targeted police chiefs—Eugene "Bull" Connor and Jim Clark—and their all-white forces played their roles to perfection (McAdam 1982: 172–79; Belknap 1987: 115–16).

If race has been central to violence involving police, war has been central to violence involving race, because the history of twentieth-century interracial crowd violence is marked by three significant war-related peaks, with several smaller clusters scattered between them. There were some very serious incidents in the first decade of the century—mainly anti-black neighborhood invasions, including those in New York City in 1900 and Springfield, Illinois, in 1908—but the first major wave of racial violence began in 1917 in Chester and Philadelphia, Pennsylvania, and in East St. Louis, Illinois. The latter outbreak, which claimed forty-eight lives, stemmed from white working men's fears about blacks' advances in the wartime economy and black replacement workers hired

by an aluminum factory. In 1919, similar crowd violence struck Washington, DC, Omaha, Charleston (South Carolina), Longview (Texas), Chicago, and Knoxville (Tennessee). Between 1917 and 1921, whites bombed fifty-eight homes in Chicago alone, and in 1921, a massive and hateful crowd swept through Tulsa, Oklahoma. There were also seventy lynchings of blacks in the first year after the Great War. The second wave overlapped with World War II, lasting from 1942 to 1945. Several of the most serious racial clashes occurred between May 25 and June 22, 1943, including crowd violence in shipyards in Mobile and in Port Chester, Pennsylvania; street battles in Centerville, Mississippi, Los Angeles, and Newark; and clashes on the training grounds of Camp Stewart, Georgia, and Camp Shelby, Mississippi. The unrest in Detroit claimed thirty-four lives and wounded more than seven hundred in the last week of June. The racial violence inside Army camps also peaked during the summer of 1943. The third wave peaked in 1967 and 1968, when American cities produced a total of 237 separate "hostile outbursts." In 1967, the violence was again more common in the summer; during a two-week period in July, serious disruptions in Newark and Detroit seemed to prompt a series of similar incidents in nearby communities (National Advisory Commission on Civil Disorders 1968: 217–20; McAdam 1982, 216–27; H. Shapiro 1988; Kryder 2000, chaps. 5–7).

For obvious reasons, fully integrated police forces would have produced different outcomes in all of these settings. In the South, in particular, any interchange between African Americans and police was generally a hostile one. Policemen killed more than half of all blacks that were killed by whites in the South in the 1920s and early 1930s; the category of whites most often killed by blacks in the same period in the South was the policeman (Myrdal 1944, 1: 542–45). As late as 1968, the National Advisory Commission on Civil Disorders (Kerner Commission) report noted that the need for additional participation by blacks in police departments and the National Guard was "acute," because forces nationwide were predominantly white, and black officers could be "particularly effective in controlling disorders that do break out."[4] Consider the quite plausible counterfactual in which moderate, pro-growth city elites overruled Bull Connor and capitulated to local and regional forces calling for the employment of black police in Birmingham in the early 1950s. The varying levels of black police deserve attention in explaining patterns of social unrest and race reform in the twentieth-century United States. But it is not yet clear what factors influenced city elites to make such appointments, or what factors subsequently retarded their growth.

Wars Generate New Rights—and New Repression

Wartime lends a curious bipolar quality to studies of the political prospects of American social groups; social histories of war are replete with descriptions of new opportunities as well as new regimentation. In a similar fashion, the question of the wartime policing of minorities engages two implicitly theoretical literatures that analyze the relationship between democratization and war: an ideational school, which argues that U.S. democratic ideals, expressed in hot and cold wars, helped propel black rights movements, and a statecraft school, which emphasizes the inclination of war-makers to more firmly control challenger groups during wars, through both ameliorative and repressive acts. One strain of the ideational scholarship argues that the United States' role in the Cold War—especially, depending on the author, the need for blacks' dedication to the effort, and the obvious contradiction between American ideals and practices that white supremacy demonstrated to domestic and foreign audiences—helped produce an elite consensus on the need for substantive and egalitarian race reform. In *Unsteady March*, for example, Philip Klinkner and Rogers Smith (1999) argue that the 1941–68 period was one of three moments in American history—the others being the Revolutionary War and Civil War periods—bearing the three factors that combined to produce "progress toward racial equality": the aftermath of a war requiring the economic and military mobilization of African Americans; the necessity of framing such wars with reference to American ideals; and powerful protest movements (see also Skrentny 1996; Dudziak 2000).[5]

Building on the work of Mary Dudziak, Klinkner and Smith note that interested parties and jurists repeatedly cited foreign policy considerations in arguments made to and by the U.S. Supreme Court in the 1950s, such as in *McLaurin v. Oklahoma* (1950), which struck down segregation in graduate schools. Clearly, "civil rights supporters continued to use foreign policy arguments to make their case." But what independent effects did this rhetoric have on policy outcomes? In a typical construction, Klinkner and Smith argue that without the foreign policy rationale, the passage of the Civil Rights Act of 1964 was "questionable." President Kennedy, in announcing his intent to pursue race reform in Congress in early 1963, "for the first time . . . stressed the morality of civil rights." It is not fully clear whether the rhetorical turn was evidence of a new cause of reform, or simply evidence of a new framing device for pursuing familiar goals of reelection and social order. The problem that this ambiguity belies

is the difficulty, or perhaps impossibility, of disentangling the foreign policy imperative from other, at least equally likely causal forces. As the explanation progresses, indeed, the problem of disorder in the South assumes primary importance. The Cold War recedes into a background condition, although it was still an overriding concern of the foreign policy elite. "Even more importantly, like the race riots of 1943, they [outbreaks of violence in the South] threatened social peace at home at a time when the nation faced grave foreign political and military threats." The riots of 1965–68 led the government to expand social welfare and "led elites to push for greater efforts to achieve racial equality." But surely the violence in the city streets did as much harm as good to advocates of racial progress, by inflaming northern white resistance, stimulating white flight, and increasing the share of both federal and state resources dedicated to policing and punishing militant wings of the movement (Klinkner and Smith 1999: 225, 258, 264, 278, 280–81). Azza Layton's (2000) recent study of civil rights policies between 1945 and 1960 shares many of these qualities. The book argues that African Americans framed their claims using Cold War arguments to mobilize the international community to help bring about political and social change in the United States (Layton 2000: 138, 149).[6]

The enthusiasm of Klinkner and Smith's and Layton's books for documenting the progressive effects of the Cold War leads to an unfortunate myopia. Noted in each work, but largely unexamined, is the fact that the Cold War mobilization provided rhetorical and ideological opportunities to racial conservatives as well as to racial liberals. In important ways, the Cold War channeled the more radical wings of the civil rights and labor movements into moderate and nontransformative directions. In fact, a substantial body of work has concluded that the Cold War, like the hot wars that preceded it, enabled authorities to weaken egalitarian, African American, labor, student, and pacifist movements (on World War I, see Murphy 1979; Schafer 1991; Kornweibel 1998; on World War II, see Lichtenstein 1982; Hill 1995; on the Cold War, see Garrow 1986; Schrecker 1999; Churchill and Vander Wall 2002).

Thus, the social science and historical literature on war's effects on democratization and egalitarian social movements is bipolar: one body of work, mainly historical, documents the damage, while another, mainly political scientific, documents the gains. Given this record, it seems unreasonable to conclude that a single foreign policy initiative—particularly one as all-encompassing as the Cold War—exerted a unidirectional influence on domestic politics over the course of these very complicated and highly contested decades. In other words, both claims

may be true: wars, including the Cold War, had both positive and negative effects on movements pursuing democratization and inclusion. New rights and privileges are often extended during wartime as authorities attempt to purchase or reward the compliance and patriotism of out-groups (P. Anderson 1974; Hale 1985; Tilly 1990: 74). But such groups typically produce individuals and organizations that challenge war-making regimes, hoping to exploit the very wartime political opportunities that Layton's and Klinkner and Smith's books outline so well. Such challengers, when they press their case too far, warrant surveillance, arrest, and punishment. Perhaps the two bodies of literature are fully compatible. Wars drive authorities to pursue social and political stability above all, and at the elite level this has meant the conversion of indifferent administrators into advocates of mild federal intervention, both to reduce racial instability and violence promulgated by whites, and to control radical challenger groups. Thus wars narrow the range of options available to order-challenging groups.[7]

One public policy captures this bipolar character of wartime innovation that joins new rights to new techniques of social control: the first appointment of blacks to a city's police force. Police personify a state's right to the legitimate use of force. For this reason, gaining appointment to the police is a measure of an out-group's new power and prestige. But it is also a means for additional surveillance and punishment. Given the empirical record that, in the aggregate, wars compel authorities to both reward and constrain African Americans, it is reasonable to posit that such police appointments might track the nation's wars.

The Multiple Motives behind the Appointment of Black Police Officers

It is easy to understand why, throughout American history, the appointment of black officers was an important step toward dismantling white supremacy. Slave-era law enforcement sustained the caste system by swiftly punishing blacks for violating rules and etiquette; in plantation districts, employers or white vigilantes most often dispensed punishment themselves. Rural areas only rarely produced incidents requiring police intervention, because expectations were so fixed and unexpected interracial contact so rare. Peace officers tended to act as the agents of the planters and other white employers. With urbanization, migrants transferred such customs to cities, but less personal and less stable relations between black and white individuals allowed blacks more freedom, as long as they avoided whites; for the same reason, interracial contacts, which were

more constant, were also often harsher. Complex and inconvenient Jim Crow regulations varied widely across cities and regions, and thus produced constant friction. Meetings with police accounted for much of blacks' contact with the white society that enveloped them, and thus played a major role in determining blacks' attitudes toward white authorities. City policemen, particularly in the South, were usually political appointees, relatively poor, uneducated, and barely trained. Taught by his peers and family to hate blacks, the white police officer's constant interaction with the lower rungs of urban life—crooks, prostitutes, and snitches—intensified his prejudices. In the 1940s, Myrdal (1944, 1: 23) speculated that "probably no group of whites in America have a lower opinion of the Negro people and are more fixed in their views than Southern policemen." Outside the South, newly arriving ethnic minorities tended to conglomerate in homogeneous urban enclaves, which allowed such groups to exert nominal political control over their own lives. This localized machine control exerted itself through police hiring decisions based on party loyalty, and thus the police force was, for many immigrants, an immediate employment opportunity and an initial step up the social ladder. In 1890, foreign-born officers accounted for roughly half of the policeman in Chicago, Minneapolis, New York, Cleveland, Milwaukee, and San Francisco, and around one of every three in Boston, Cincinnati, Buffalo, New Orleans, and Pittsburgh (Myrdal 1944, 1: 536–57; Fogelson 1977: 36–37). Poorly trained police personnel were one of the factors propelling early twentieth-century Progressive reformers toward professionalizing urban forces.

Dissatisfaction with poor policing, corruption, and machine bosses motivated the good-government activists, who waged their campaigns in part by publicizing the nature and extent of the failings of policemen. A survey of Chicago police officers in 1904 revealed, for example, that they spent "most of their time in saloons, restaurants, barbershops, bowling alleys, pool halls, and bootblack stands. They were everywhere except the beat." But such behavior tended to reinforce cultural pluralism. Most of these policemen were drawn from the lower classes and "had little or no inclination to impose the morality of the upper middle and upper classes on the ethnic ghettos" (Fogelson 1977: 21, 38). In addition, local party leaders decided which laws would actually be enforced. Thus, such officials allowed immigrants to maintain cultural norms that were frowned upon by the upper tiers of the majority (Royko 1971, 102–11; O. Wilson and McLauren 1977; Lindberg 1991: 106–7). The upper tiers were not oblivious to these police trends, or to the corruption within the police ranks

stemming from the fact that "police did not suppress vice; they licensed it" (Fogelson 1977: 32). Progressives launched a crusade to ensure that police eliminated "deviant behavior" (253) and buttressed the values of the middle- and upper-class native whites. By the end of World War I, professional norms and rules began to replace patronage relationships in the organization of policing (129–30).[8] Through the 1920s, Progressives published reports and articles, staffed commissions and official inquiries, and sponsored legislation that exposed corrupt and machine-driven forces and argued for professional, depoliticized police forces. Reports and recommendations followed the standard good-government formula for professional, hierarchical administration: reorganize departments along "scientific" and administrative lines, remove the force as far as possible from political influences, gather administrators into a central facility, and establish professional standards and training capacities. Political and administrative elites often chose to ignore these recommendations, but between 1890 and 1930, Progressive reformers' efforts met with gradual, cumulative success in large cities across the nation. Many cities placed their departments under civil service regulations, founded training academies, raised salaries, and recruited officers more selectively. Still, the chief's authority over precinct commanders or rank-and-file officers was generally weak, and ward machines still controlled much of the daily operations of the force. A second round of reform between 1930 and 1960 transformed urban police departments into the bureaucracies we know today.

Although Progressive reforms reduced corruption, shirking, lawlessness, and repression, the new, more centralized police system drastically affected non-Anglo Americans. While nineteenth-century Latino and African American migrants consistently earned their way out of urban ghettos to settle in new cities nationwide, such residents lacked access to the local political organizations that had provided the previous inhabitants with avenues to political power and, correspondingly, social improvement. Police in this new environment "no longer served to enhance the mobility" of lower-class newcomers. In addition, reforms actively discriminated against these new ghetto residents. Removing residency requirements created job competition between local minority groups and masses of newly eligible whites, who were also better prepared for the new aptitude and character tests. While nineteenth-century police tended to personify, recognize, and accommodate themselves to ethnic and racial minority behaviors, by the middle of the twentieth century, police officers instead "enforced the law and preserved the peace in a rather heavy-handed way" among minorities.

Prejudiced white officers, more sympathetic to familial and familiar ethnicities, enforced a "single standard of enforcement" and engendered resistance from ghetto residents who viewed them as agents of oppression, not protection (Fogelson 1977: 244–48, 250, 256–60).[9] Forces from within these now-professionalized police communities led further reforms toward effective, low-cost public service through rationalized bureaucracies.[10]

Given this context of contestation and reform, what kinds of political and administrative claims characterized the debates surrounding the appointment of black police? Often, proponents of black police invoked a simple and relatively uncontroversial equity claim for proportionality in the distribution of appointments to the force, particularly in cities governed by Jim Crow, where the pursuit of full equality under the doctrine of separation was a strategy to pressure white authorities to either dedicate additional resources to city services aimed at blacks or abandon segregation. In Wilmington, North Carolina, in 1919, a statewide civic race conference called for black police and for a proportionate number of appointees in federal, state, county, and city offices. When advocates pointed out, in 1920, that Baltimore was the only city in the nation with a black population of a hundred thousand that did not employ a black policeman, they also noted that blacks were discriminated against in the distribution of official patronage. "The surest way to continue a friendly relationship, the police with Negroes," one South Carolina newspaper put it in 1948, "is to continue to add Negroes to the police force until Negroes have their full quota of officers—a quota based upon population percentage."[11]

In keeping with city officials' overriding interest in efficient administration, the goal of reducing crime remained constant throughout all discussions of hiring black officers. In Memphis, the need to maintain order in nonwhite neighborhoods necessitated the appointment of two black detectives in 1919. When black citizens of Louisville, Kentucky, petitioned city officials after the Great War, they declared that crime was "rampant in the colored section and that it can best be quelled by the use of colored uniform policemen." According to the Tulsa police in the mid-1930s, it was nearly impossible to control the Greenwood district without using officers of the same race.[12] The call for black police in Atlanta, it was argued, was not the work of "starry-eyed reformers or impractical dreamers," but aimed simply to reduce homicides and felonies in black neighborhoods.[13] Most often, mayors and police chiefs noted the advantages that black police offered in efficiency, although this was sometimes depicted as either reducing crime or ordering race relations. Without exception, the first

black appointees' patrols were limited to black neighborhoods and their arrests limited to black suspects, although exceptions were allowed when whites were found inebriated in black neighborhoods, or when public safety demanded intervention. A survey of five Texas and Oklahoma police chiefs in 1935 found that rules restricted all forces' black officers in this way.[14] Tulsa advocates pointed out that black officers could obtain information more easily in black neighborhoods than could whites. In addition, black police would reduce racial friction, for "offenders do not have nearly the resentment on being arrested by them that they have when arrested by white officers."[15] One sensational incident involving a black criminal who shot two white policemen allowed a New York newspaper to summarize the advantages of black police by example.

> In the first place, the boy [criminal] would hardly have been able to beat two colored policemen to their guns, for they would have been better acquainted with him and his kind. And it is entirely possible that he would have had less of a temptation even to try it. And then, too, maybe Boddy [the criminal] would have a bit less of panic in his soul and not so great an objection to quizzing methods if he had been in the hands of colored officers. But the plainest evidence of all is seen in Boddy's capture [aided by black informants]. Those colored citizens would have been much less likely to report on Boddy if they had found it necessary to report to white officers . . . And the most urgent reason for American psychology is this: If a Negro officer gets killed by a Negro criminal, there is no "race question" but a pure question of crime. Officers will get killed sometimes, and if colored officers are on the job among colored people, it will prevent the frequent arousement of the great inter-racial brute beast. (*New York Age*, January 21, 1922)[16]

In addition to expressing concern about crime rates in black neighborhoods, the request for black police by citizens of Columbia, South Carolina, made four points: black officers would reduce interracial tensions, lend greater safety to black children crossing streets, deter juvenile delinquency by building respect for the law, and serve to educate citizens about the benefits of good citizenship. Again, many of the arguments focused on access to information: "Every race and nationality can best be handled by men of the same blood. Negro policemen will better understand the peculiarities of their own race and will keep order better." A Savannah newspaper pointed out that such police would be "more efficient" because they were in closer contact with black residents than were whites; they would be less dependent on stool pigeons and "pimps" and thus would pay more attention to complaints and tips from upstanding citizens, who would not feel as

though they were betraying a member of their race by placing a suspect in the hands of one who would mistreat him. All of this would lead to a greater interest in and respect for law enforcement and civic affairs among black citizens. In San Antonio, Texas, as reported in the *OK City Black Dispatch*, the positive impact of the new police appointees resulted from their being "in a better position to secure information, and report on conditions among their own race."[17]

Some advocates of the appointments inverted the argument, focusing on the irritating effects of white police in black neighborhoods. The first black police hired in Salisbury, Maryland, officials explained, resulted from a fear that a planned amusement pavilion would cause racial friction, "and that efforts of the white members of the force to stop trouble would result in a race riot or worse." In the 1940s, a Louisville newspaper noted that the increasing use of black police stemmed from the belief that "much bitterness, growing out of the arrest of Negroes by white officers and the subsequent charge of discrimination, can be avoided" in this way.[18] Municipal-level policy imperatives—namely, the search for efficient administration—clearly provided a recurrent foundation for arguments concerning black appointments. Such concerns seemed to be a necessary but not sufficient condition for these reforms. What other factors combined with the efficiency claim to bring about appointments? Why did these other factors cluster during wartime?

Wartime Pressures: Preventing and Responding to Criminal and Racial Violence and Degeneracy

One primary cause of black police appointments was high crime rates, which, real or imagined, many thought to be a byproduct of major war mobilizations. For example, during World War II, black residents of Charlotte and New Orleans thought their cities' crime waves required the addition of black police to the force. In postwar Savannah, the first blacks were hired principally to clear up war-induced racketeering and crime.[19] The Great War—and the large-scale social dislocation it occasioned—prompted a great deal of concern for the morals of women and girls, and in many cities, authorities hired their first female police officers, including black females, to patrol the streets of black neighborhoods. Areas around movie theaters and dance halls were thought to be places where policewomen should protect girls and children from the corrupting influences that followed from an influx of the criminal class and congested housing conditions.[20] The first black policewoman in Pittsburgh was assigned "to look

after the morals of Negro girls and women," while the first black female cop in Washington, DC, enforced an anti-spitting campaign, among other things.[21] The first such officers in New York City investigated conditions in dance halls and other places frequented by girls. Because they governed a special sphere, many of the women were drawn from careers in social services, such as the first black policewoman in Sioux City, Iowa, who had been a juvenile officer, and the first Minneapolis policewoman, who had been a social worker at a settlement house. The challenges posed to law enforcement personnel by the overwhelming needs of inner city neighborhoods led Myrdal (1944, 1: 545) to suggest that "ideally, the policeman should be something of an educator and a social worker at the same time that he is the arm of the law." The gravity of these concerns prompted many cities, including Washington, DC, Mobile, and Montgomery, to hire black policewomen well before they hired black policemen.[22] Such first female hires were more likely to appear during wars. Of the thirty-two cities that first hired black female police in the forty-five years between 1910 and 1955, eighteen of the cities did so during the twelve years contained by World Wars I and II and each war's three-year postwar period (see Appendix at the end of the chapter).[23]

A second reason for black police hires in wartime was that many activists called for the hiring of blacks to serve as a deterrent to the interracial tensions and violence they associated with major war. The *Plaindealer* warned that since Kansas City, Kansas, would soon gain thousands of workers due to its prominence in the defense mobilization, the city needed to hire police and firefighter personnel, including blacks, to bring these forces to capacity. Likewise, civic organizations called for nonwhite police for boomtowns such as Portsmouth, Virginia, which was struggling to cope with congestion and disorder. In Little Rock, Arkansas, local authorities first appointed black police to work with military police patrolling an area containing a popular African American United Service Organization club. Eight black military police were assigned to assist the Newark police in patrolling a largely black ward. Other calls cited the arrival of irritating white police, now of the military variety. One petition condemned the undisciplined behavior of white military police in black neighborhoods, "wielding their clubs over the heads of patrons and otherwise molesting, abusing and embarrassing them."[24]

The wave of racial violence centered on the summer of 1943 produced a number of calls for the hiring of black policemen, but it was an appeal that citizens began making just after the Great War. In 1919, the black-owned *Christian*

Recorder argued that white police bore primary responsibility for the upsurge in racial violence nationwide. The following year, a group of Baltimore citizens calling for the hiring of black officers argued that their city's recent riot was due to a lack of confidence in the police force. The group displayed letters from twenty-four cities with black policemen. The chief of Detroit, for example, wrote that black cops had been placed in black neighborhoods "to avoid race friction." The Baltimore group argued that such officers could "preserve order with fewer arrests." These officers, it was also said, had helped control racial animosity during the recent Washington, DC, riots. In New York City, the fifty years preceding 1918 produced only a handful of black appointments to the police force; only three black officers worked on the force that year. In the subsequent six years, the police commissioner appointed forty-five such officers, providing black residents with protection "and also the guard that was needed to prevent the flaring up of race difficulties." In many other large cities there were "eruptions of trouble" after the war "but in New York, none" (Dulaney 1996: 23).[25]

But such arguments were much more common during and just after World War II. In Nashville, a permanent interracial civic committee, organized following a street battle involving soldiers, recommended the employment of black policemen and policewomen. The Chicago Racial Relations Committee, appointed by the mayor in the aftermath of the Detroit race riot to promote interracial understanding, was the first to recommend hiring additional black members to the police force. And after a white policeman launched the Harlem riot of 1943 when he tried to arrest a black woman, "do you honestly believe," one black-owned newspaper asked, "that had the same policeman been a Negro policeman . . . would there have followed an incident of rioting and looting?"[26]

When the war ended, those Americans attentive to race relations predicted new waves of racial disturbances, due to a growing militancy among black veterans and black masses. Some journalists and activists noted that the hiring of black officers throughout the South had reduced racial tension significantly.[27] A Norfolk activist supported this claim by noting, "We must think a little ahead of the time and prevent friction between the races following this war," adding that after World War I there had been nineteen race riots. By 1948, fifty southern cities employed black police: nine were first hired before 1930; seven between 1930 and 1939; eleven between 1940 and 1944; and twenty-three between 1945 and 1948. By this time, it was very common for a black journalist to poll the police chiefs of other southern cities on whether they employed black officers and whether these officers had proved satisfactory. In the case of Charlotte, a dele-

gation of black citizens then submitted to the city council a list of such cities where the policy had been successful. In one survey, as reported in November 1945, the police chief of Atlanta, which employed black patrolmen and patrolwomen, noted that "race relations in our city are very good" since the city began deploying such officers in 1948.[28] By that point, only three Deep South states—Alabama, Mississippi, and Louisiana—lacked any black police.

The third mechanism linking war to police hires concerns the process of making claims, since veterans often provided the relatively militant black citizens and organizations needed to affect a change in police policy. In 1920, one ex-soldier, in a widely reported case, insisted on appointment as a patrolman rather than as a doorman at police headquarters. And in the mid-1930s, the National War Veterans Association launched a crusade for black policemen in Brooklyn, New York, after two race riots erupted out of incidents of white police brutality. Again, the pattern was even more apparent after World War II. In March 1946, for example, three hundred black veterans marched around Atlanta's City Hall demanding the appointment of black police. They delivered a formal petition to the city council's police committee. Similarly, the interracial Louisiana Veterans Organization petitioned the mayor of New Orleans to appoint black police, and the Negro Veterans Welfare Association of Charlotte planned to pursue "prosecution of federal action" against city authorities for "depriving of certain negro veterans of their civil privileges as citizens in not appointing them full-fledged policemen on the local police force."[29]

Finally, such hirings required a pool of "legitimately" qualified personnel. One of the most powerful effects of war on black policing was the repeated creation of a cohort of well-qualified black veterans, many with policing skills gained in the segregated armed forces and with impeccable patriotic credentials. By a wide margin, military veterans were the most often cited source of recruits. In the aftermath of World War I, for example, veterans gained such jobs in Cleveland, Muncie (Indiana), and New York. Authorities clearly preferred veterans for such positions, black or white. The first black deputy sheriff appointed to the Des Moines, Iowa, department had fourteen years of Army service and had served with distinction in France. Detroit hired its first female police officer in part due to her record in the war as a member of the Red Cross. One of the two Washington, DC, policewomen working in 1921 had served overseas as a YMCA worker during the war. Occasionally, whites argued that veterans were more deserving. As reported in the *Chicago Defender* in January 1922, the mayor of Evansville, Indiana, explained that he had appointed three blacks to the po-

lice force "as a recognition of the services rendered to the country by the negroes during the war."[30]

When Chicago announced that it would hold an examination for patrolmen in September 1919, officials predicted that more than five hundred former soldiers and sailors would participate. To help these candidates, the municipal civil service commission suggested to the Board of Education that it conduct special classes for all honorably discharged soldiers and sailors to help them prepare for the "mental examinations." In addition, for a new examination subject called "citizenship," veterans were able to secure higher places on the exam lists because the new system granted "substantial consideration for their military or naval service without discouraging candidates who lacked this service." Citing a growing disposition among black New Yorkers to cooperate with authorities, a local newspaper called for the immediate appointment to Harlem of a score of black policemen. The paper suggested that the men be drawn from the discharged black units, including Buffalo soldiers, since the federal government was now accepting honorable Army service in lieu of a U.S. Civil Service examination for such positions. Not only would this serve as "fitting recognition" for their service, but since "race feeling will be tense and high for many months," racial outbreaks were to be expected, and black policemen "alone can and will solve the problem."[31]

Very similar patterns obtained after World War II, often in the South. Of the eight black policemen assigned to patrol Atlanta's Auburn Avenue in 1948, seven were veterans, all serving from three to five years; one was a military policeman. The two black policemen hired by High Point, North Carolina, were veterans. All four men appointed as Richmond's first black police, and three of the first four black police in Norfolk, were ex-servicemen. Both of the first black policemen hired by Fayetteville "received considerable experience in law enforcement in the U.S. Army." Several black war veterans passed the civil service tests in Charleston and were available when that city decided to employ two black officers in 1949. The two men appointed as New Orleans' first black police were veterans of World War II, as were Reidsville, North Carolina's first two appointees. In the North, Albany's two first black appointees were vets. In announcing plans to hire the city's first black cops, the Hartford, Connecticut, mayor announced that he was reserving police positions for returning veterans. Greenwich's first black policeman was a veteran, as were the first three policemen of Newport, Rhode Island. Summing up the case for the effects of war on both the need for and the supply of black police, a New Orleans journalist noted

that "many things point to the timeliness and necessity" of appointing such officers, including "the postwar upsurge in crime, [and] the many qualified men (particularly those with military police or shore patrol experience)."[32] Maps showing cities and their first black hires by eight-year cohorts suggest that the World War I, World War II, and Cold War periods were times when city authorities were more likely to pursue this reform. Equally important are the years *prior* to World War I and World War II, during which relatively few cities made such hires. Put another way, the three wartime segments (1916–23, 1940–47, and 1948–55) produced eighty-six hires in twenty-four years, an average of 3.6 appointments per year. The peacetime segments produced twenty-three hires in forty years, an average of 0.56 appointments per year (see Appendix).

For all of these reasons, police departments hired black officers in auxiliary roles, in part to "divert attention away from black issues," while at the same time stabilizing and integrating the black population. In the early years of World War II, to take one example, city administrators in Miami decided to address a local crime wave. White officers viewed calls to minority neighborhoods as potentially life-threatening and often responded to minor challenges with excessive force. The grand jury of Dade County recommended that the city find both black and white officers to patrol black districts. One community activist supported the plan on the grounds that in other cities and towns, this had proved to be "a sociological blitzkrieg to crime and its origins." With the repeal of the poll tax in Florida in the early 1940s, the voting strength of blacks had also increased somewhat. Such potential political strength, combined with sustained violence and unrest, prodded city leaders to hire their first black police in 1944. Called "patrolmen" rather than police officers, they monitored a separate precinct and were based in separate quarters (Dulaney 1984: 41–47; Chapman 1986: 38, 40–42; Cashmore 1991: 107).

Wartime Americanisms: Ideology and Political Competition

In addition to powerful appeals to efficiency in policing, and despite the effects of war on creating instability, crime, trainees with military experience, and militant activists, advocates focused on constitutional and democratic rights. This was useful in the South, which in 1940 employed one-eighth of the nation's black policemen, despite housing more than three-fourths of the nation's black population; the North had one-fifth of the population but four-fifths of the policemen. When a North Carolina clergyman called for black policemen in 1941,

he based his argument in part on the grounds that black citizens were presently "denied many advantages that citizens deserve in a democracy," despite their paying taxes and accounting for one-third of the city's population. He drew attention to a local business group's ongoing campaign to promote the discussion of "Americanism." It was ironic, he argued, for local whites to exalt this concept—in which proponents meant to include equality, individual freedom, and various civil rights—when one denied another full citizenship (Myrdal 19441 1: 542–45).[33] Once the United States joined the war, columnists and activists emphasized that the dedication of black soldiers and citizens to the war effort would arguably merit new rights in return. Others claimed that such reforms would, in turn, strengthen blacks' commitment to the war. A petition for black police in Richmond noted that reform would "strengthen the morale and give to our people a greater faith in the ideology of democracy for which we now fight." Similarly, a black church leader noted that a number of race reforms, including the employment of black police, were necessary to encourage servicemen—Negro and white—to have faith that the democratic principles for which they fought would be made real.[34]

An example of the contested nature of such Americanist equality claims in the South came in Atlanta in March 1946, when, as noted earlier, three hundred black veterans, some in uniform, marched around City Hall to demand the appointment of black police. When a crowd gathered to listen to the speeches, white hecklers began shouting: "You're Communists!" "If you want Negro policemen, go on up Nawth where you can git 'em." A speaker responded, "No, we're not Communists, we're Americans, demonstrating the American way. Give us Negro policemen in Negro sections, to stop police brutality and injustice, and you'll find less crime. The dead and wounded Negro soldiers have the right to ask for Negro policemen . . . Hitler tried his way, and it wouldn't work." The city council's police committee tabled their suggestion.[35] The segregationists' charge of communism had grown common enough that reformers framed their claims as free of political considerations. A Memphis newspaper argued that it was a mistake to consider the hiring of black policemen a "cure-all." The proposal was not related to programs advocated by "radical politicians of the Communist, carpet-bag variety. It has nothing to do with politics. It is purely and simply a matter of equity and one involving improvement of police efficiency." Thus, in the midst of the Cold War, arguments appeared that echoed the findings of Layton (2000) and Klinkner and Smith (1999). The Southern Regional Council, a liberal organization dedicated to equal opportunity, re-

leased a booklet in 1952 called *Race and Law: A Guide to Modern Police Practices*, which noted that communist sympathizers had recently seized on incidents of racial discrimination for propaganda purposes. While the public and the police often feel obligated, "in the name of anti-Communism," to defend racist institutions attacked in this way, it argued, such an approach is the worst method for combating communism, because the "stubborn defense of unjust practices here at home plays right into the hands of anti-American propaganda abroad."[36] Overall, efficient policing and social-order concerns seem to be more predominant in the debates surrounding first black hires over the course of the twentieth century. Still, ideational arguments such as these appeals to democratic principles clearly played a supplementary role, particularly in the South, and most often during and after World War II.

The Case of Birmingham, Alabama

Running for reelection as police commissioner in 1951,[37] Eugene Connor vowed that no blacks would be appointed to the Birmingham police force as long as he remained in office. Appropriating a technique of reformist journalists, he claimed to have studied fifteen cities that had hired black officers. "I've made as thorough a check on Negro police as any man in this country," he announced. All but one of the officials he interviewed said they had added black police to win votes. The next year, Connor faced impeachment proceedings recommended by a Jefferson County grand jury. At that time, a Citizens Committee investigated the operations and morale of the police department and concluded that the hiring of a few black policemen "would be a tremendous factor in improving race relations" in Birmingham, by building the confidence of all citizens in the police department and by reducing high crime rates among blacks. As the effort to hire black police emerged as a major issue in the 1953 elections, Connor branded blacks "worthless as law enforcement officers." When a newspaper noted that this same type of man was currently fighting in Korea with white soldiers, Connor replied that his force did not "have a cockeyed thing to apologize for." When he arrived in office, he said, every patrol car had a three-foot long rubber hose with which cops whipped black suspects. He did away with them, and told his officers to treat all offenders alike—"red, yellow, or green"—send them to court. When Walter White, executive secretary of the NAACP, visited Birmingham to attend a regional meeting of his organization, he noted that the city had not distinguished itself in the area of law enforcement

and urged southerners of both races to "organize and unify decent opinion in the south for the acceptance of inevitable social changes." The Jefferson County Coordinating Council's Inter-racial Committee conducted a study on the effects of black police in 1953 and found that one of the most important results of the hires had been a "subtle but definite shift in attitude" among blacks toward the law. "There is no longer automatic fear and antagonism toward police officers," according to the study, since "the Negro cop is at least as stern—probably sterner—than the white officer. But we don't resent it because we know it's not a question of race but of good law enforcement. And school children who used to think of policemen as their natural enemies feel pride and ambition and respect for the law." Black police had contributed to understanding and cooperation between black citizens and police, as well as between black and white citizens. In Alabama in July 1953, only Dothan, the all-black town of Hopson City, and Talladega had black police. The Montgomery County grand jury recommended the use of black police for Birmingham. It was by this time the largest southern city without them. In 1956, black residents filed lawsuits to gain the right to take the civil service examination required for the job, but local white administrators resisted such claims for another ten years; no black cop patrolled Birmingham before 1966 (Dulaney 1984: 44, 72).[38]

We now know, of course, that Connor played a vital reactionary role in the struggle for civil rights in the South.[39] Consider yet another contrasting case in the account of a southern official's response to a demonstration organized prior to the Birmingham civil rights campaign, most likely in 1960. Ernest Hollings, then governor, later recalled his reaction to the news that Martin Luther King Jr. was leading a demonstration in a nearby city.

> So I raced on up to Rock Hill, and I found that the city police force was not good,—[handwritten note in text "could cause us"] trouble. I pulled them. I in turn got the few black deputies I had on SLED [State Law Enforcement Division] and then police here in Columbia, black policemen from Charleston, I got black policemen off the State College campus board,—State College Campus, I got black policemen from Sumter, and when Martin Luther King marched in . . . we had black policemen policing the streets and the incidents, and when one of them stepped out of line there was a black policeman leading him into the paddy wagon and they threw away their cameras. They said this isn't what we want. And they went on down to . . . where Bull Connor, the sheriff, with his hoses and police dogs . . . (Hollings, July 8, 1980)[40]

Such policing strategies affected unfolding racial confrontations across the South, and where local authorities chose to respond with force, federal authorities were much more likely to intervene to protect civil rights protesters.

Conclusion

Five factors together helped to determine the timing of a city's appointment of black police. First, many believed that chronic crime waves emanating from black neighborhoods were caused by war-related disruption of families, promotion of juvenile delinquency, and draining of police personnel. Second, officials argued that migration, overtaxed transportation nets, wartime competition for jobs and housing—all products of a twenty-four-hour manufacturing and service economy—helped to cause racial violence. These first two factors comprise what we could call the "demand" side of the mechanism. Third and fourth, wars also invent a "supply" of black personnel, by creating both rights claimants and a pool of skilled applicants. The fifth factor, democratic values or frames, provided a wholly legitimate bridging frame that both city officials and claimants invoked to promote the policy. What deserves emphasis here is the relative absence of a broad interracial understanding of the principles of fairness and egalitarianism.[41]

Black police, in exemplifying both social control and new rights, personify the bipolar quality of African American incorporation. While African American organizations celebrated the first police appointees as members of a vanguard achieving racial democratization and incorporation, white officials viewed such officers as agents of social control and racial pacification. The historical evidence suggests that a large part of the variation in the timing of such first hires is explained by wars, the social dislocation they entail, the ideological arguments they generate, and the militant black veterans they train. The causal factors described in this chapter—the background conditions of machine politics and police efficiency concerns, as well as the more immediate causes and justifications of these hires, including crime, friction, claims, qualifications, and frames—led to the token appointment of black units, deployed only to black neighborhoods, generally with inferior equipment and restricted powers of arrest. Such incomplete reform helped local authorities and law enforcement officers adjust to new patterns of demography and to wholly new forms of social and political relations in the twentieth century. White elites' motives for these reforms were thus

largely instrumental and produced stunted reforms, which explains why so few black police were in place for the riots of the late 1960s.

The absence of an interracial compact regarding the justness of a fully interethnic police force fatally wounded the reform's potential to confront and overcome the legacies of white supremacy. It may be that democratizing claims succeeded in this policy sphere only when they corresponded to authorities' interest in such reforms for other purposes. The largely white police forces contributed to the generation of crowd violence, and then presided over its repression. The nation's battles abroad, through complex but discernible chains of events leading to auxiliary appointments and incomplete integration of local police, helped determine the nature of the police forces that would deal with the street battles of the 1950s and 1960s. A first wave of battles in the South in the 1950s and early 1960s propelled the cause of racial egalitarianism as white police brutality forced federal authorities to intervene. A second wave of urban riots in the late 1960s, mostly outside the South, provided politicians and authorities with reason to harness the same cause.

APPENDIX: CITIES HIRING FIRST BLACK POLICE OFFICER (BY YEAR OF FIRST HIRE)

Information from author's analysis of various sources, including *Tuskegee Institute News Clipping File*, Division of Behavioral Science Research, Carver Research Foundation, Tuskegee Institute, Alabama. Female police officer indicated by +.

1892–99

1894	San Antonio, TX
1895	Pittsburgh, PA; Columbus, OH

1900–1907

1903	Peoria, IL
1904	East St. Louis, IL

1908–15

1908	San Diego, CA
1910	Knoxville, TN
1911	New York, NY

1916–23

1916	Wheeling, WV; Princeton, NJ
1919	Memphis, TN; Oklahoma City, OK; Pittsburgh, PA+; New York, NY+; Phoenix, AZ

1920	Salisbury, MD; Bridgeport, CT; Des Moines, IA; Chicago, IL+
1921	St. Louis, MO; Hackensack, NJ; Tacoma, WA; Beaumont, TX; Detroit, MI+
1922	Grand Rapids, MI; Evansville, IN; Cleveland, OH; Atlantic City, NJ+; Toledo, OH+
1923	Louisville, KY
1924–31	
1924	Milwaukee, WI; Sioux City, IA+
1926	Wilmington, NC
1932–39	
1932	Trenton, NJ
1933	Leavenworth, KS
1934	Indianapolis, IN; Lexington, KY; South Bend, IN; Beaufort, SC
1936	Philadelphia, PA+; Cleveland, OH+
1937	Baltimore, MD
1938	Nashville, TN
1939	Hartford, CT; Evanston, IL+
1940–47	
1941	Charlotte, NC+; Winston-Salem, NC+
1942	Little Rock, AK; Raleigh, NC; Mobile, AL+
1943	High Point, NC; St. Louis, MO+; San Francisco, CA
1944	Greensboro, NC; Durham, NC; Miami, FL; Louisville, KY+
1945	Norfolk, VA; Hartford, CT
1946	Sacramento, CA; Pensacola, FL; Richmond, VA; Newport News, VA; Charlotte, NC; Milwaukee, WI+
1947	Dallas, TX; San Bernadino, CA; Washington, DC; St. Petersburg, FL; Savannah, GA
1948–55	
1948	Palm Beach, FL; Portsmouth, VA; Atlanta, GA; Macon, GA; Gastonia, NC; Memphis, TN; Rochester, NY
1949	Gulfport, MS; Fayetteville, NC; Columbia, SC; Charleston, SC; Richmond, VA+
1950	Jacksonville, FL; Augusta, GA; Macon, GA; New Orleans, LA; Spartansburg, SC; Greensboro, NC; Atlanta, GA+; Orlando, FL
1951	Columbus, GA; Syracuse, NY; Newport, RI; Montgomery, AL; Bridgeport, CT
1952	Columbus, OH; Newport News, VA+
1953	Monroe, LA; Wilmington, NC; Fort Worth, TX
1954	Montgomery, AL; Jackson, MS; Mobile, AL; Pensacola, FL

CHAPTER NINE

Civil Rights and the Democratization Trap

The Public-Private Nexus and the Building of American Democracy

Robert C. Lieberman

The Civil Rights Act of 1964 is rightly regarded as a pivotal, if not revolutionary, moment in the development of democracy in the United States. Long a restricted democracy that limited rights and obligations of citizenship by race (as well as by sex and other ascriptive markers), the United States finally, a century after Emancipation, committed itself fully, not just to the absence of slavery but to the legal equality of the races. The civil rights revolution of the 1950s and 1960s marked a decisive rejection of the nation's nondemocratic past, but one that was imbued with the legacy of democracy's uneven and frequently interrupted advance. Together with the Voting Rights and Immigration Acts of 1965 and the Open Housing Act of 1968, the Civil Rights Act was intended to extend to African Americans democratic rights of participation and civic and social inclusion from which they had been excluded for more than three centuries (Marshall 1964; King 2000). But in doing so, the United States had to overcome barriers to democratization posed precisely by earlier flaws in its democratic development, particularly the stunted democracy of the South (see Key 1949; Moore 1966, chap. 3; Rueschemeyer, Stephens, and Stephens 1992: 125–32; Quadagno 1994, chap. 1). More generally, the civil rights struggle and its limitations highlight the challenge of expanding democratic rights through democratic procedures under which citizens who are already endowed with rights, and who benefit from the uneven distribution of

rights, might object to the dilution of their own power that would follow from the extension of rights to others—what we might call the democratization trap.

In comparative terms, the American democratization challenge is, in some respects, distinctive. The extension of democratic rights, as commentators dating back to Tocqueville have noted, did not require the country to overcome an autocratic past in a way typically associated with most accounts of democratization elsewhere, from the first wave (the European overthrow of absolutism) to the second (decolonization after World War II) and the third (the overthrow of communist and military dictatorships at the end of the twentieth century) (Huntington 1991). The United States, rather, sought to overcome a legacy of uneven democratization in the presence of well-established democratic state and civil-society structures and patterns of democratic legitimacy. In this context, advances in democratic inclusion for African Americans came about partly through a challenge to the state but also through the democratic mobilization of state power to secure, protect, and enforce democratic rights. The case of American democratization thus falls between accounts of state-led democratization and alternative arguments that emphasize civil-society pressures.[1] Neither state power nor civil-society pressure was sufficient to push forward democratization of the American polity in the 1960s; rather, both were necessary.

In this chapter, I present the expansion of American democracy in the 1960s, particularly with respect to African Americans, as just such a hybrid case of public-private democratization. Accounts of the American state, its role in policy development, and its consequences for American democracy typically equate "the state" with formal structures of administrative power, particularly public bureaucracy, and have defined "state-building" in terms of the development of these structures. In the 1960s, Samuel Huntington (1968, chap. 2) identified the American state as a comparative peculiarity, an underdeveloped "Tudor state," stuck in a medieval institutional rut and lacking the kind of centralized coercive capacity that seemed necessary to contain and manage the democratic pressures that emanated from a modernizing society (producing the incipient democratically induced crisis of order and governance that seized him with anxiety) (Crozier, Huntington, and Watanuki 1975). In his foundational work on American state-building, Stephen Skowronek (1982) showed that the United States was not as stateless as Huntington feared, but rather that American national administrative capacities had developed out of the nation's distinctive political patterns rather than on the European model of a progressive democratization of absolutism (Shefter 1977; Bensel 1990; Skocpol 1992; Mann 1993; E. Sanders

1999). But still, for Skowronek as for the legions of scholars who have followed his lead, the sine qua non of American state-building was the construction of public coercive power as a *replacement* for the private power that characterized the nineteenth-century "state of courts and parties"—"reconstitution" replacing "patchwork" as the dominant image of state-building (Carpenter 2003).

But this understanding of the American state does not fully account for the state's role in the democratizing civil rights revolution, and I argue here that this view of state power is misguided precisely because it ignores the central role of "private" activity in constituting public power.[2] I examine a puzzling example of democratic incorporation through state-building—the curious rise of affirmative action in employment, despite the apparent lack of state power to impose such a policy. This episode suggests that an alternative understanding of state power might be fruitful in explaining the state's role in democratization, an approach that takes into account the links between "private" actors (both individuals and groups) and the public structures of the state. This public-private nexus is one that we take for granted in the "political" branches of government—legislatures and executives, whose role in the policymaking system is explicitly understood to include input from the (somewhat terminologically confusing) "public" (Mayhew 1974; Arnold 1990; L. Jacobs and Shapiro 2000). By the same token, this view seems a peculiar one when applied to government institutions such as the bureaucracy and the courts, which are conventionally understood to operate at some reserve from the realm of private, nongovernmental behavior.

Consequently, most accounts of bureaucratic politics have focused primarily on agencies' position in the American system of separated powers and their connections to other institutional actors within that system—Congress and congressional committees, presidents, courts—and not on the connections between agencies and private or civil-society actors (see Weingast 1983; McCubbins and Schwartz 1984; Moe 1985; McCubbins, Noll, and Weingast, 1987; J. Wilson 1989; D. Epstein and O'Halloran 1999). Attempts to locate the sources of power in the American administrative state have generally found either that it tends to be exerted primarily by the concentrated interests being regulated (capture theory) (Huntington 1952; Bernstein 1955; Stigler 1971) or that a wider range of interests drives bureaucratic politics, because elected officials either want to maximize their electoral support or need to craft winning policy coalitions from diverse elements (interest-group theory) (Peltzman 1976; Moe 1987; E. Sanders 1999; James 2000). These two theories generate different empirical predictions about both the processes and the outcomes of the state's administrative respon-

sibilities. Capture theory predicts that outcomes will be consistently favorable to regulated interests and that representatives of those interests will dominate the administration's decision-making. The interest-group approach suggests that regulatory outcomes and decision-making process should be less consistently favorable to regulated interests and more sensitive to changes in the political balance of power. While both capture and interest-group perspectives account for some of the Equal Employment Opportunity Commission's (EEOC) behavior in its early years, neither provides a very satisfactory explanation of its role in the rise of affirmative action.

An alternative approach to understanding how state power is deployed derives precisely from the understanding that the state is situated in a public-private nexus. In *Private Power and American Democracy* (one of the more underappreciated classics of American political science), Grant McConnell (1966: 5) reminds us that "deference of government to private groups does not eliminate the phenomenon of power. Power exists in the hands of those groups." When the government makes policy yet fails to clearly empower itself to implement the policy—an apt description of the challenge facing the EEOC in enforcing civil rights law, but also a phenomenon endemic to American politics and arguably inherent in the separation of powers—it is false to say that power does not exist, simply because it is not constituted in clear lines of traditional "state" authority (Lowi 1979; Moe 1989). Power is merely displaced from the public to the private realm, through the reliance on means of policy implementation and enforcement that depend on private action. "It is noteworthy," McConnell (1966: 6–7) writes, "that [the] predilection of interest groups for economic action does not preclude the use of public authority, where that authority can be successfully isolated from influences other than those of the group in question. Thus, governmental action by an administrative agency is to be preferred to legislation, group action is to be preferred to party action, and local and state government action is preferred to federal action." Private action in the public realm, McConnell suggests, often hides behind the illusion that it is truly private and thus of minimal concern either to observers of politics or to citizens at large. And yet, as his analysis powerfully reveals, private power—or rather, public power deployed through private action—is a central recurring phenomenon in American politics.

Accordingly, this public-private view of regulatory power includes forms of ostensibly private activity and organization that can be understood to serve public regulatory functions. In this view, the state's administrative power will often depend on the linked activity of both "public" and "private" actors: bureaucrats,

organized interest groups, networks, and private citizens (see Clemens 1997; Schneiberg 1999; Schneiberg and Bartley 2001). This approach suggests that both administrative processes and regulatory outcomes will tend to reflect strategic alliances between agencies and private actors. Regulatory outcomes, moreover, might not follow directly from an agency's formal authority but often come through more indirect, improvisatory means.

The brief account I offer here of the evolution of affirmative action and the role of the EEOC in this development suggests, moreover, that such a public-private perspective on state power holds promise as a theoretical approach to American political development, state-building, and democratization. At the very least, as I will show, it seems to provide a better explanation for the EEOC's activities and regulatory outcomes in the late 1960s and 1970s than do competing theories of bureaucratic power. The means to effectiveness and enforceability for the EEOC involved the joining of public and private power in ways that these alternative approaches do not contemplate, resulting not only in a surprising policy transformation that seemed to have no institutional substrate but also in a set of agency activities not predicted by other theories.

The Democratization Trap and the Civil Rights Puzzle

The Civil Rights Act of 1964 unquestionably represented a giant step toward democratic inclusion for African Americans. The product of both a challenging social movement and intricate legislative politics, the act prohibited discrimination in employment, education at all levels, and public accommodations, and empowered the federal government to enforce these prohibitions through a variety of administrative, judicial, and fiscal means. But for all its transformative power, the Civil Rights Act was the product of a compromise induced by the fractured structure of American political institutions. That compromise, which was necessary, particularly, to break a Senate filibuster that famously lasted three months and filled more than sixty thousand pages of the *Congressional Record*, was principally aimed not at limiting the act's bold assertion of equal rights but at restricting the mobilization of state power to enforce those rights (Lieberman 2002b; 141–43; Rodriguez and Weingast 2003; Farhang 2008). Title VII of the act, which outlaws employment discrimination, created the EEOC as the principal agency to enforce this prohibition. As originally conceived by civil rights advocates, the EEOC was to have full regulatory powers, particularly the power to issue binding cease-and-desist orders to employers. By final passage, how-

ever, the EEOC had neither cease-and-desist authority nor the intermediate level of authority that the House of Representatives had favored—the power to file lawsuits in federal court against offending employers. Instead, the commission could only receive and investigate individual complaints of discrimination and, on finding probable cause to believe that discrimination had taken place, attempt to mediate a settlement between the parties. Coercive enforcement was left to individual plaintiffs, who could sue employers once the EEOC procedure had run its course. This was not a recipe for strong and effective enforcement; indeed, it is a plausible reading of the historical record that limiting the effectiveness of enforcement (especially in the North) was precisely the purpose of the compromise over Title VII (H. Graham 1990: 129–32; Selmi 1996: 5–9).[3]

Despite these limitations, Title VII soon became the basis for a strong, arguably effective, state-initiated program of antidiscrimination enforcement—the cluster of mandates and practices known collectively as affirmative action. This development, which took place in the short span of ten years or so following passage of the Civil Rights Act, poses a double paradox. First, affirmative action, which relies on race-conscious and group-based means to remedy the effects of discrimination, seems to contradict the clear color-blind orientation of the Civil Rights Act, which appears to prohibit the consideration of race or other group characteristics in employment. Second, the enfeebled EEOC was one of the principal driving forces behind the evolution of affirmative action. Bereft of power to carry out its enforcement responsibilities, it nevertheless managed to create a strong enforcement regime that was eventually backed by federal courts (including the Supreme Court), widely adopted and internalized by corporations, and broadly supported by many public institutions in American life (Skrentny 1996; Dobbin and Sutton 1998; see also *Griggs v. Duke Power Company* 1970, 1971; *Regents of the University of California v. Bakke* 1978).[4]

This puzzling trajectory highlights the role of the state and the shape of state power as an essential but problematic factor in the evolution of democratic rights. The EEOC constituted an attempt to mobilize the power of the state in the service of democratization, but that power was subject to all of the paradoxes and limitations of democratic policymaking, particularly the self-interest of citizens and their representatives and the institutionally structured inefficiencies of representative government. The EEOC's challenge, and its paradoxical success in the face of this challenge, illustrate with a fair degree of precision the "democratization trap": eventually, the success of democratization depends on the state's ability to protect and enforce democratic rights, and in order to accomplish this,

the state must not only nurture opportunities for political participation but also restrain itself from interfering in the civil liberties necessary for the flourishing of democracy (Dahl 1971; see also F. González and King 2004). But if the state is to be, at least in part, the guardian of democratic rights, which depend on freedom from an overbearing state, then who will guard the guardians?[5] Can a democracy, especially one seeking to emerge from a less than fully democratic past, accomplish this without resorting to means that effectively subvert the transparency and popular control that are the hallmarks of democratic policymaking, as some critics have charged in the case of the EEOC and the development of affirmative action (H. Graham 1990; Kull 1992; Thernstrom and Thernstrom 1997)?[6] Moving from one sort of equilibrium, where a state in the hands of the strong preys on the weak, to another, where the state protects the weak, is no easy task (Weingast 1997; Lieberman 2002a). Nevertheless, this path formed part of the inescapable challenge of American democratization—no matter how advanced its economy, how carefully and intricately designed its political institutions, how extensive and supportive its civil society, the United States had no legitimate recourse beyond democratic means to replace nondemocratic practices.

In these terms, the Civil Rights Act (and Title VII in particular), for all its historic resonance, seemed doomed to failure in the quest to mobilize state power to create and sustain enforceable democratic rights. How was the EEOC able to be effective in an institutional environment quite hostile to its success in both material and cultural terms (Lieberman 2002a; see also P. Hall and Taylor 1996; Immergut 1998; J. Campbell and Pedersen 2001)? The commission, that is, lacked both the coercive tools of administrative power and a clear legal mandate to violate the color-blind framework that underlay American civil rights policy and practice. What, then, enabled the EEOC to act effectively? More generally, how can an agency embedded in the famously weak, fragmented, and highly constrained American national state develop and deploy this kind of effective capacity to achieve a set of democratizing goals through autonomous action, often beyond the gaze of elected leaders? (See Skocpol 1985.)

Private Power, Public Power, and the Equal Employment Opportunity Commission

The standard approaches to state power and its role in shaping policy outcomes focus particularly on groups' ability to influence the formal administrative operations of government agencies. The outcomes of those operations are there-

fore a good place to start in assessing the applicability of these various theories of state power and bureaucratic performance to the EEOC. As a consequence of the congressional compromise over Title VII in 1964, the commission's formal enforcement power was limited to the receipt, investigation, and mediation of individual claims of discrimination. Thus I begin the empirical examination of the EEOC with some data on this process.

Even within its own limited horizons, the EEOC very quickly showed its limitations. Figure 9.1 shows the commission's caseload of individual discrimination complaints over its first thirty-three years of operation. The data on EEOC caseloads were calculated from figures in the commission's annual reports. The annual number of charges received is reported each (fiscal) year. The annual number of charges resolved includes all cases on which the commission finished its work, by completing an investigation and issuing a determination of probable cause or no cause, finishing a conciliation process, transferring or deferring the case to a state EEO agency, or otherwise closing a case administratively. The cumulative backlog is simply the running total of the difference between these two figures—numbers received and resolved. It is important to note that the data include complaints about all forms of discrimination that fall under the commission's jurisdiction, including race, sex, religion, national origin, and, more recently, disability status. (The large and sudden increase in complaints in the early 1990s, for example, mostly reflects filings under the Americans with Disabilities Act of 1990.) Thus, although the data do not distinguish patterns of race discrimination claims, they do show the general limitations on the commission's administrative capacity.

In its first year of operation, the commission received nearly 9000 discrimination complaints and resolved almost three-fourths of them, by completing an investigation and brokering a settlement between the parties or issuing a ruling (that there was, or was not, sufficient cause for the complainant to file a federal lawsuit) or by referring cases to a state agency where appropriate. The first year's work thus left a backlog of nearly 2500 cases unresolved (in violation of the sixty-day time limit specified in the law for resolving cases), and things only got worse from there as the EEOC entered a period of Malthusian challenges. Over the next several years, the number of cases filed grew exponentially, doubling every three or four years through the mid-1970s.

At the same time, the growth of the number of cases resolved every year was linear, so that by the early 1970s the commission was resolving fewer than half of the cases it received each year. The consequence was an exploding backlog of

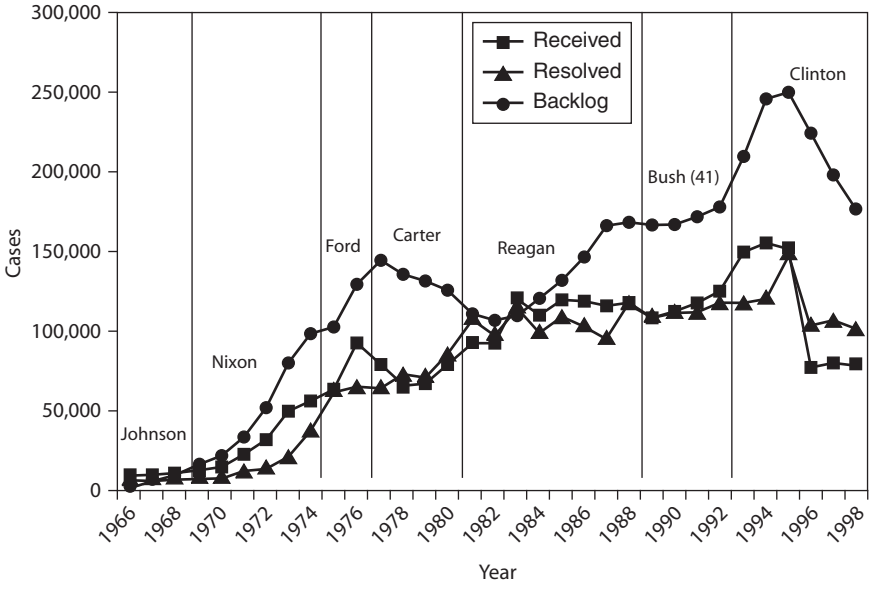

Figure 9.1. Equal Employment Opportunity Commission Caseloads, 1966–98.

unresolved cases that reached 10,000 in 1969, 20,000 the next year, 50,000 in 1972, and 100,000 in 1975. Not until the Carter administration was the EEOC able to begin to make up some of its lost ground; under the chairmanship of Eleanor Holmes Norton, whom President Carter appointed to lead the commission in 1977, the backlog was reduced from 145,000 to 106,000, even as the commission was fielding an average of 75,000 new complaints each year. But under the chairmanship of Clarence Thomas, appointed by President Reagan to succeed Norton in 1982, the commission fell behind again, largely because complaints rose to more than 100,000 per year but also because Thomas instituted several procedural and policy changes that limited the commission's ability to resolve charges in-house (Selmi 1996: 14–15). By the mid-1990s, the EEOC's cumulative backlog of cases was nearly a quarter of a million.

On the surface, these figures seem to lend some plausibility to a picture of the EEOC as captive of employer interests. Plaintiffs in antidiscrimination actions would seem to have an interest in the reasonably swift resolution of their complaints, not only because of the damages they might recover if they win but also because the EEOC is a gatekeeper for the filing of lawsuits; plaintiffs cannot file suits in court until the EEOC resolves the case one way or another. To the de-

gree, then, that the EEOC systematically delays case resolutions, its operations might seem to favor employers. When the EEOC does resolve cases, moreover, those resolutions tend to favor employers. In cases where the commission's investigation process goes far enough to result in a cause finding (approximately half the cases filed; the other half are either settled or closed administratively without reaching the finding stage), fewer than 10 percent generally result in a finding of probable cause favoring the plaintiff (Payne et al. 1992; Selmi 1996: 12–14). The commission's record of handling discrimination complaints could certainly not be said to favor the protected interests in the domain of antidiscrimination law (particularly for African Americans), except in the South, where there is some evidence that federal protection substantially and immediately improved blacks' wages and prospects for advancement in the job market (Heckman and Payner 1989; Heckman 1990; Donohue and Heckman 1991).

This is certainly not a picture of an agency that seems, on its face, concerned to balance the demands of competing constituencies, at least in the early years when conciliation was essentially the EEOC's only formal regulatory function. There is some evidence in the backlog time-series of policy shifts in response to partisan changes in the government, consistent with interest-group theory—the only significant periods of declining backlogs were during Democratic administrations (Carter and Clinton; see figure 9.1). These patterns seem to have resulted, in part, from policy changes adopted by Democrat-appointed commission chairs aimed at streamlining the administrative process for complaints (B. Wood 1990; U.S. Commission on Civil Rights 2000: 4–8). At the same time, other EEOC functions that might be vulnerable to political swings, such as the agency's budget, seem relatively impervious (Cancellieri 1999). Neither capture theory nor interest-group theory seems to provide a clear account of the EEOC's performance of its most basic regulatory function. More puzzling still is that neither theoretical approach seems consistent with the EEOC's role in the major turn in equal employment opportunity policy in the decade after the Civil Rights Act: the rise of affirmative action in employment.

To the extent that the EEOC was successful as an enforcer of civil rights laws in the late 1960s and early 1970s, it was so *despite*, not because of, its administrative capabilities. To understand how the EEOC, laboring under the institutional and political constraints imposed on it, managed to oversee the birth of affirmative action, we need to look beyond its regulatory outcomes and the regular administrative processes associated with them. Overcoming these constraints required working in partnership with other institutions, both private

and public, whose aims overlapped with and whose capacities complemented those of the EEOC and its staff. Two links in particular—with civil rights groups such as the NAACP and with the federal courts, through the agency of individual plaintiffs—proved especially fruitful for the commission in its quest to establish its own legitimacy as a civil rights enforcer and, in so doing, to construct a strong and resilient enforcement regime. That this very fruitful nexus of connectedness between the EEOC and organized private interests was a key motor of policy development suggests that an associational approach to bureaucratic power may hold the key to explaining the EEOC's overall pattern of activity and policy impact.

The Mixed Economy of Affirmative Action

The EEOC's operational and institutional limitations proved a double-edged sword. On one hand, the commission's relative weakness and political vulnerability reflected the general limits on administrative power in American government. On the other hand, these same institutional constraints created a great deal of slack in the commission's political and administrative environment. Limits on its power obliged it to seek other means of influence, particularly by collaborating with other institutions, both inside and outside the state. This imperative drove the problem of antidiscrimination enforcement into the same fragmented and decentralized political arena that had produced the EEOC's incapacity in the first place. The struggle for enforcement would be fought out not in terms of administrative power emanating from Washington but in multiple arenas and jurisdictions around the country; and in this political context, federalism, usually seen as a constraint on civil rights enforcement and protection, was actually empowering (R. Young and Burstein 1995). The EEOC sought to play whatever role and forge whatever alliances it could as it sought pragmatic rather than ideological or coercive solutions to the problem of fulfilling its mandate in a constrained environment.

Among the EEOC's key partners in this endeavor were African Americans themselves, who were organized in a powerful national social movement that remained deeply rooted and active in local political and economic arenas through local organizations. The flourishing of local political organization among African Americans, in fact, was one of the important enduring consequences of the civil rights movement, and these organizations gave African Americans enhanced political leverage in many parts of the country (Greenstone and Peterson 1973;

Button 1989; Morone 1990, chap. 6). In particular, federated organizations such as the NAACP and its Legal Defense Fund (LDF) could collaborate with the EEOC in pursuing race-conscious remedies for employment discrimination in a variety of local-level forums. The principal arenas for these activities were collective bargaining between union locals and employers, and lawsuits in the federal courts; both of these arenas allowed the EEOC to get around its lack of coercive authority. In particular, the EEOC's relationship with the federal courts (especially after the 1972 amendments) proved empowering, because it gave the commission access to a politically and organizationally independent means of deciding discrimination cases and enforcing remedies. But beyond this structurally determined opportunity, the more historically contingent relationship that the EEOC was driven to forge with certain elements of the waning civil rights movement in the late 1960s and 1970s helped the commission to have an impact beyond its apparent institutional means. These elements of the EEOC's universe—also consistent with the characteristic shape of American administrative institutions—enabled it to participate in the development of policies that transformed American antidiscrimination policy beyond its color-blind legislative origins.

Hamstrung by its limited coercive power and its restricted institutional position, inundated in short order with an overwhelming caseload, and limited by the legal requirement of proving discriminatory intent in individual cases, the EEOC turned to a variety of tactics to pursue its aims. It was able to exert entrepreneurial influence through several channels, ranging from very informal to more formal, precisely because it could exploit the organizational slack in the federal government, because its precise role in the pantheon of enforcement agencies was so ill defined, and because it was able to find outside partners and allies. In this sense, the "mixed economy" is an apt metaphor for the political roots of affirmative action—neither wholly public nor wholly private, the policy emerged from a hybrid realm (Katz 1986; Katz and Sachsse 1996).

The actions that the EEOC took to bolster and supplement its weak formal powers exemplify the distinctive American public-private mode of state-building and its role in democratization. To the degree that it could, the commission used its limited formal enforcement power to find a way to make antidiscrimination enforcement meaningful. The commission did have some authority to deal with individual cases filed with it under Title VII. As noted earlier, when an employee filed a discrimination case with the EEOC, the commission was supposed to investigate the merits of the claim and rule within sixty days on whether there was

sufficient evidence of discrimination to warrant a lawsuit in federal court (which could then be filed by the plaintiff) (Sovern 1966; Blumrosen 1971). Thus the EEOC did have the power either to advance or stymie actions against alleged discriminators. Despite its problems of enormous backlog and chronic delay, it could and did use probable-cause findings strategically to aid the prospects of private litigation, as it did, for example, in numerous complaints against U.S. Steel's plants in Birmingham, Alabama (Stein 1998: 113; see also Belz 1991: 29).

A second way in which the EEOC asserted its ordinary regulatory authority was through its power to collect information from employers on the racial composition of the work force, firm by firm. This is did through its form EEO-1, on which employers covered by Title VII were required (under the general administrative rule-making power of federal agencies) to report data on their employees by race and ethnicity. The data that the EEOC compiled from this form would prove a key weapon in the shift toward race-conscious enforcement (H. Graham 1990: 193–97, 239–43). But it is essential to note that the reporting system alone was not sufficient to produce affirmative action. Under the terms set by Title VII, the data generated by EEO-1 could not constitute prima facie evidence of discrimination, and the EEOC had to make creative use of these figures to render them effective.

The EEOC also used the power of publicity to expose discriminatory practices and induce employers to change their behavior, a common enough tactic among federal agencies but also one that highlights the especially porous nature of the American administrative state. The commission held a series of high-profile hearings on employment practices in New York City, for example, that targeted prominent service industries such as banking and other white-collar industries that depended heavily on their civic reputations in the nation's most liberal city. These hearings shone a rather embarrassing spotlight on the *New York Times*, among other employers (Stein 1998: 118).[7] In early 1969, another set of hearings, this time in Los Angeles, looking into the motion picture industry, raised congressional hackles (particularly those of Senate minority leader Everett Dirksen, who threatened to oppose Nixon's appointment of William Brown as EEOC chair because of his participation). Yet another round of hearings in Houston in the spring of 1970 brought a protest to the White House from Texas's Republican candidate for the Senate, Rep. George Bush, who feared they might pose problems for his candidacy. In early 1969, another set of hearings, this time in Houston, raised congressional hackles; these hearings hastened the end of Johnson appointee Clifford Alexander's chairmanship of the commission.[8] Such

hearings had no legal force, but they did serve to increase public awareness about the extent and sometimes surprising venues of racial discrimination.

By themselves, these activities that capitalized on the EEOC's formal power would have done little to advance the vigorous enforcement of antidiscrimination law. But the commission also did a number of things that engaged and mobilized a network of private actors in which it was embedded. As Sean Farhang (2008) shows, the limitations on the EEOC's power had significant feedback effects on the behavior of private litigants, who came to play a significant, one might say dominant, role in the enforcement of Title VII. More generally, Farhang (forthcoming) shows how procedural legal rules embedded in statutes, such as the provision in Title VII entitling successful complainants to recover their attorney's fees from the defendant, in addition to damages, effectively lowered the costs of filing lawsuits and made litigation a viable and effective antidiscrimination enforcement strategy. But this upsurge of litigation took place in a context shaped by state action in cooperation with civil rights organizations; the behavior of the EEOC in cooperation with the LDF and other groups also lowered the costs of civil rights litigation by creating a legal milieu in which Title VII suits had a greater probability of succeeding.

The EEOC accomplished this in several ways. For example, the commission's staff developed legal interpretations of Title VII and guidelines for practice for employers. In the U.S. Steel discrimination cases in Alabama, for instance, the commission helped to formulate guidelines on seniority, which was a particularly sticky question in declining industries such as steel, where shrinking employment meant layoffs—which usually meant that African Americans, hired more recently and lower down on the job ladder, would be the first to be let go (Stein 1998: 111–13). It also helped to develop guidelines for the use of occupational tests as a qualification for hiring and promotion, which often worked against black workers and job applicants (H. Graham 1990: 251–54). In general, too, the EEOC's legal staff worked hard to develop legal interpretations that would help the commission address its fundamental dilemma: how to enforce the law in a meaningful way in the absence of any real coercive power. Meaningful enforcement, for the EEOC's legal staff, meant going beyond the piecemeal, one-at-a-time, individual complaint approach and finding strategies that would attack discriminatory practices more generally (Skrentny 1996: 127–33). The commission's guidelines and legal interpretations had no binding force, of course, but they did influence the thought and behavior of other actors with dif-

ferent means of power and influence at their disposal; these actors were the targets of the EEOC's two other sets of activity.

The EEOC also filed briefs as *amicus curiae* in federal antidiscrimination lawsuits brought by private litigants, which were often allowed to go forward on the basis of EEOC probable-cause findings in cases originally brought as complaints to the commission. Through its *amicus* briefs, the EEOC was able to argue for its interpretation of Title VII before different federal judges in a variety of places and on multiple occasions, even though it was legally barred from bringing these suits itself. Thus, for example, the EEOC filed an *amicus* brief in *Griggs v. Duke Power* (1970, 1971), the case in which the Supreme Court ultimately ruled that employers could not use even ostensibly race-neutral tests or other occupational qualifications that tend disproportionately to bar minority applicants, unless the employer could show these were a bona fide qualification for the job in question. The commission's brief and the testing standards and legal interpretation that it offered were cited explicitly both by the dissenting judge on the Fourth Circuit appeals panel that found for Duke Power and by Chief Justice Warren Burger, who wrote the Supreme Court's majority opinion reversing the judgment and finding for the plaintiffs (H. Graham 1990: 385–86; Belz 1991: 52–53; R. Epstein 1992: 193–94; Kull 1992, 204–5).

Finally, the EEOC cooperated closely behind the scenes with private nongovernmental organizations, particularly the NAACP Legal Defense Fund, which took the lead in representing plaintiffs in antidiscrimination suits. EEOC staff members convened strategy meetings with LDF attorneys and others to work through disputes with employers. They offered advice about legal strategy (which was not always accepted—the commission's deputy general counsel John Pemberton advised the LDF's Jack Greenberg not to appeal *Griggs* to the Supreme Court). They shared data and helped devise legal arguments that plaintiffs' lawyers could use in arguing cases (H. Graham 1990: 250–54, 385; Belz 1991: 28–29; Stein 1998: 102–5, 112).

In particular, these links with the NAACP and the LDF were the linchpin in advancing collective, race-conscious enforcement of Title VII. Neither bureaucrats nor courts, either by themselves or in combination only with one another, could have achieved this result. The EEOC certainly could not; it had neither the power to coerce nor the power to file suits. Nor could the courts; although they had the power to issue decisive and authoritative rulings in the cases that came before them, these cases had to come from somewhere. Alexander Bickel

(1986: 247), outlining what he called the "paradox of all paradoxes concerning the [Supreme] Court," wrote that "the Court may only decide concrete cases and may not pronounce general principles at large; but it may decide a constitutional issue only on the basis of general principle" (see also G. Rosenberg 1991). It was the linkages between the EEOC and the LDF that gave the courts both the cases and the principles that they ultimately used to validate the practices and principles of affirmative action. It was the LDF, with the help and background advice of the EEOC, that brought cases strategically to present issues of discrimination in the most legally promising light, hoping to make persuasive arguments and find receptive judges. And it was the EEOC that took the lead in developing the legal interpretations and doctrines that backed up those arguments and, ultimately, persuaded judges.

This pattern of policy and political development was dependent on the forging of relationships not only among bureaucrats and judges but also in the collective action of African Americans, organized into a movement that sought and exploited opportunities offered by the American political system. Although rooted in a national social movement, the NAACP was organized in a federated structure that mirrored the federal structure of the American state, with local, state, and national branches, and so was able to operate in multiple venues and with varied strategies at once (Skocpol 2003). For the NAACP and the LDF, the courts and the EEOC were not simply the upper reaches of a hierarchy whose dicta, pronounced from on high, were law. Rather, they were opportunities to be exploited, points of access to the structure of state power, openings that could be entered in attempts to pry policy loose and advance an approach to antidiscrimination enforcement that some (although by no means all) African American leaders and organizations and their allies in the worlds of law and government had spent a long time developing (H. Graham 1990: 110–13; King 1995: 208–9; Kryder 2000, chap. 4).

At least as much as the EEOC's other maneuvers, these links forged with the LDF were the key to the commission's role in nudging forward an interpretation of Title VII based on "disparate impact," collective employment patterns that were unfavorable to blacks. These informal links, the products partly of the commission staff's entrepreneurship, but also of the organizational slack in the federal government that allowed the staff to be enterprising, meant that the development of affirmative action was not simply a top-down imposition by meddlesome and imperious bureaucrats and courts, contemptuous of legislative intent and public opinion, as some interpreters suggest (H. Graham 1990; Kull

1992; Thernstrom and Thernstrom 1997: 423–40). Rather, it was equally a bottom-up effort, facilitated by the configuration of actors, institutions, and ideas prevailing at the time. The flip side of institutional fragmentation has been a level of improvisatory suppleness that has made the EEOC and the rest of the American race relations establishment remarkably effective. These institutional opportunities, in turn, were the result not simply of the structure of American political institutions but of the way in which African Americans had been incorporated in those institutions through the historical processes of political development.

Private Power and the Development of American Democracy

This picture of the Equal Employment Opportunity Commission upends conventional views of civil rights enforcement on several dimensions. First, the EEOC, despite its lack of formal regulatory power, was not as anemic as it is often portrayed. It was able to marshal substantial resources that helped in dramatically shifting the grounds of Title VII enforcement in a relatively short time. But it did not accomplish this through conventional command-and-control means of regulatory enforcement, using powers directly and explicitly delegated to it by Congress. Rather, it accomplished this through strategic alliances with private civil-society groups that were, in effect, enlisted in a project of public regulatory activity.

Second, the centrality of the NAACP and the Legal Defense Fund to these enforcement efforts suggests strongly that the view of affirmative action as the product of a cabal of judges, bureaucrats, and civil rights lawyers to subvert the color-blind premises of the Civil Rights Act is mistaken. "Post-1968 civil rights law has notably been imposed on American democracy from the top down," legal scholar Andrew Kull (1992: 191) wrote. "Little disposed to reclaim the burden of self-government in an area offering only hard choices, the nation has largely acquiesced in policies chosen by administrators and judges." Not so. Administrators and judges indeed played critical roles in the evolution of antidiscrimination policy, but their actions were enabled and sustained by the wide-ranging democratic forces of the civil rights movement and its organizations. These organizations exploited opportunities posed by the structure of the American state to advance their cause and to at least finesse, if not avoid, the democratization trap; in so doing, they enhanced the reach of the regulatory state and its capacity to enforce democratic rights.

This brief account of the EEOC's role in the development of affirmative action seems to suggest that an associational perspective on bureaucratic power holds promise as a theoretical approach to American political development, state-building, and democratization. At the very least, it seems to provide a better explanation for the EEOC's activities and regulatory outcomes in the late 1960s and early 1970s than do competing theories of bureaucratic power, particularly capture and interest-group approaches. The means to effectiveness and enforceability for the EEOC involved the joining of public and private power in ways that these alternative approaches do not contemplate, resulting not only in a surprising policy transformation that seemed to have no institutional substrate but also a set of agency activities not predicted by other theories.

The linked role of public authority and private activity in advancing democratic rights in the United States can also illuminate one of the key questions that we pose in this volume: when might a state that has posed an active barrier to democratization transform itself into an agent of democratic advance? And more particularly, what factors might drive this transformative process in the presence of the democratization trap, the majoritarian paradox inherent in American political development? The affirmative action story suggests that both sides of the equation, public and private, are necessary for the success of this kind of development. Several counterfactual speculations are useful here. In the absence of state authority vested in the EEOC, it seems unlikely that the lawyers, organizers, and activists of the civil rights movement would have been so successful in promoting the race-conscious approach to Title VII enforcement that eventuated in the legal and, ultimately, political entrenchment of affirmative action. By the same token, without its civil-society partners, the EEOC would have had little ability to advance this policy on its own. This speculative conclusion is particularly pertinent in cases of incomplete democratization, where the state's authority is already subject to democratic control—in the shadow of the democratization trap. Where the state is subject to the will of the majority, the state's capacity to act as an agent of democratization for a minority is dubious, as is the legitimacy of a minority insurgency in search of democratic rights. The public-private nexus, linking state power to unrealized democratic claims, offers one way around this difficulty.

The trajectory of this paradoxical case of American policy development helps to clarify the mechanisms that underlie government authority in the United States. As Ira Katznelson (2002a) reminds us, such an undifferentiated notion of "the state" has limited the conceptual apparatus available to students of the state

in American political development. He suggests a return to J. P. Nettl's (1968) suppler, multidimensional notion of the state, which allows us to consider "stateness" in more varied, and hence more precise, terms than simply the strength of coercive administrative power, and consequently to consider how democratic states might avoid the democratization trap. The theoretical juxtaposition presented here strongly suggests that this more expansive view of state authority should include the mobilization of private power, not as an accident or a deviation, but as a regular and enduring dimension of the American state. Integrating the notion of private power into the study of bureaucratic development and state-building thus not only helps explain the puzzling career of the EEOC and the rise of affirmative action, but also points the way toward a broader perspective on the sources of state power and its role in the building of democracy in America.

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PART 4

New Agendas

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CHAPTER TEN

The Development of Democratic Citizenship

Toward a New Research Agenda

Suzanne Mettler

Contemporary political leaders typically speak of the United States as a long-established democracy, one that was fundamentally democratic in spirit at its inception and became progressively more so throughout its history. To the extent that the nation is mentioned as an actor in the drama of recent and current democratization around the world, it is in the role of a facilitator or even as a liberator, as a nation poised to bring others along the path toward democracy. As President George W. Bush told the National Endowment for Democracy in 2003, "The advance of freedom is the calling of our time; it is the calling of our country. From the Fourteen Points to the Four Freedoms, to the Speech at Westminster, America has put our power at the service of principle . . . Working for the spread of freedom can be hard. Yet America has accomplished hard tasks before." Granted, politicians occasionally address the unfulfilled promises of American democracy, but typically as matters in need only of fine-tuning in order to complete a journey of steady advancement (e.g., Bush's First Inaugural Address, in 2001).[1]

Although a growing number of scholarly works provide evidence that the story of American democratization has been far less linear and straightforward than this popular view implies, scholars have yet to address the subject in a sufficiently frontal and coherent manner to offer an alternative to the dominant narrative. Introductory textbooks in American government still tend to depict a tale of steady progress, driven forward by a series of reform moments, most

notably the Founding, Reconstruction, the Nineteenth Amendment, and the achievements of civil rights. They routinely tell stories of the social movements, individual leaders, and political processes that pushed the nation to offer a wider array of formal rights, or to extend rights to more citizens. This narrative requires what Paul Pierson (2004) calls a "snapshot" view of political development, one that concentrates on reform moments and neglects to examine what actually ensued in their wake. The long periods that lie between such moments are assumed to be times of stasis or continuity, as if they necessarily—and simply—reflected the goals of the reforms.

This volume goes a long way toward exposing the short-sightedness of the standard narrative. By turning attention to democratization in a context in which reforms have been added on to the state in a jerry-built, patchwork fashion over long periods of time, the chapters reveal that its trajectory has been neither unidirectional nor unified. Democracy has unfolded in complex and even paradoxical ways, sometimes advancing itself in a more rapid and dynamic manner than the simple logic of steady progression would allow; sometimes developing in a remarkably slow or halting fashion; and sometimes reversing itself in some ways, even as it expands in others. Furthermore, the contributors put the institutions of government and political processes front and center in their analysis and examine how they shape patterns of democratization. They are attentive, for instance, to how the capacity, authority, and ideological norms of the state affect the development of democracy. This approach is essential in a nation such as the United States, in which some aspects of democracy were established long ago and others have developed fairly recently (Orren and Skowronek 2004).

Yet, we still need to press this analysis further to illuminate how democratic reforms have shaped the development of *citizenship.* Fundamental to the idea of democracy is the notion of a reciprocal relationship between citizens and government. According to Robert Dahl (1971: 1), democracy involves "the continuing responsiveness of the government to the preferences of its citizens, considered as political equals." We need to know, through systematic and comprehensive research, how democratic procedures, once in place, have developed in practice and how those processes have affected citizenship. We should be able to specify how political development has influenced citizens' capacity for and inclination to participate in the polity, making their preferences known, and how it has influenced the extent to which they may do so as political equals. In addition, we should understand the impact of democratization for government's responsiveness and accountability to citizens, across time.

Although the chapters in this volume do not venture far into this research agenda, they do offer crucial insights that help point the way toward such analysis. I begin by discussing the ways that scholars—notwithstanding some noteworthy exceptions—have largely circumvented the study of democratization in the United States, leaving the standard narrative of gradual progress insufficiently challenged. I illustrate how the chapters reveal more complex dynamics and patterns of development, then outline components of an analytical framework, suggested by contributions to this volume, that would permit us to examine the processes through which state development has shaped the scope and vibrancy of democratic citizenship across time. I illustrate the use of this approach through some examples involving dynamics of gender and economic inequality.

Overlooking Democratization in the United States

The scholars contributing to this volume are by no means the first to observe paradoxes in American political development pertaining to democratization. Numerous scholars have illuminated, through powerful and incisive analyses, such instances as when the extension of rights to some Americans has depressed the civic status of others, or when reforms from one period were reversed in the next (e.g., Quadagno 1994; R. Smith 1997; Lieberman 1998; Tichenor 2002; Valelly 2004; King 2005a; Ritter 2006). But scholars have yet to focus squarely on the broad topic of U.S. democratization, and to look across time and place to specify patterns of its development or to assess and compare measures of its presence. The traditional orientations of divergent approaches—comparative analysis, behavioral analysis, and historical institutionalism—have led each to give insufficient attention to democratization (F. González and King 2004).

Most comparative studies focus on transitions from authoritarianism to the adoption of basic procedures to guarantee political competition and civil and political rights. Granted, some note the incomplete nature of American democracy that persisted until African Americans finally gained assurances of inclusion, in the 1960s (Moore 1966; Dahl 1971).They tend to focus, however, on nations in the "third wave" of global democratic expansion, including several in Central and South America, Asia, and eastern Europe, as well as South Africa (Huntington 1991). The United States and other westernized nations do not appear among the cases they examine closely, even when they are included in studies with a large number of cases (e.g., O'Donnell, Schmitter, and Whitehead 1986; Przeworski 1991; Linz and Stepan 1996a, 1996b; L. Anderson 1999; Diamond

1999; Gill 2000; Wiarda and Center for Strategic and International Studies 2002)—although there are exceptions (e.g., Boix 2003). Certainly some comparativists have offered probing treatments of the historical processes through which state development shapes democratic citizenship, though without attention to the American case (e.g., Marshall 1964; Collier 1999; Bermeo 2003; Capoccia 2005). These studies indicate the value that could be gained by applying such analysis to the United States.

In the study of American politics, questions about democratic citizenship are generally the province of the field of political behavior. Indeed, scholars in this area have done more than any to illuminate the determinants of civic engagement and political participation. Surprisingly, however, their literature refrains from addressing democratization per se. This is in part because they generally rely on cross-sectional data and thus are hindered from probing processes across time (e.g., Verba, Schlozman, and Brady 1995; Burns, Schlozman, and Verba 2001). Also, these studies tend to focus on the impact of individual and social attributes, overlooking how the institutional arrangements of government and public policy may shape the scope and vibrancy of democracy. They rarely place the United States in comparative perspective. Here again, there are important exceptions to the rule, and these illustrate the value of linking a focus on political behavior with a broader historical, institutional, and comparative framework (e.g., McAdam 1982; Carmines and Stimson 1989; Rosenstone and Hansen 1993).

Scholars of American political development, being adept at studying historical processes and the impact of institutional factors, are well poised to take on this agenda. Most studies give more attention to the political processes that *led* to state-building moments than to assessing what ensued in their wake. Certainly, seminal works often convey an implicit interest in the effects of developments for democracy, often discussing such effects in closing chapters of book-length studies (e.g., Skowronek 1982; Morone 1990; R. Smith 1997; E. Sanders 1999; Carpenter 2001). And, as noted earlier, many studies explore cases of how specific policies influenced citizenship. Nonetheless, the broad question of how governance and political development have shaped democracy remains undertheorized and underexamined.

Since as early as 1787, the United States has had some elements of a democratic state, but these have coexisted with features that are not democratic. This simultaneous operation of multiple orders of authority is what Karen Orren and Stephen Skowronek (2004: 17) call "intercurrence." As Robert Lieberman observes in chapter 9 of this volume, the United States possesses a "legacy of un-

even democratization in the presence of well-established democratic state and civil-society structures and patterns of democratic legitimacy." As a result, democratization has occurred not through fundamental challenges to the state but rather as the result of efforts to expand some already-existing aspects of state power and to eradicate others. Understanding democratization in this context requires that scholars turn more deliberately to the task of examining the historical processes through which institutions of government themselves have affected the scope and vibrancy of democracy.

More specifically, we need a systematic analysis of the political processes that emerged *after* the creation of formal procedures for democracy, to assess the extent to which they have included individuals as equal citizens, boosted citizens' capacity to participate politically, and fostered the dynamics of political contestation (Dahl 1971). In highlighting the dynamics of policy feedback, Theda Skocpol (1992, 2003) paved the way for such exploration, illustrating it in her own work by highlighting how policies and institutional configurations of governance, once established, shape subsequent patterns of group formation and political mobilization. To date, however, the potential of such inquiry to probe democratization has yet to be exploited: scholars have been more likely to examine how prior policies shape subsequent action at the elite level, by policymakers (e.g., J. Hacker 2002), than to explore the mass political implications for the inclusivity of citizenship, equal participation, and free and fair contestation.

The Nonlinearity of Democratization

In his classic book *Polyarchy*, Robert Dahl (1971) describes two key indicators of democratization: "liberalization," the extent to which regimes feature public contestation or competitive politics; and "inclusiveness," the proportion of the population entitled to participate politically. These concepts promise a valuable means for assessing the extent to which democracy exists in a given society over time, and for comparing the extent of democratization across nations. Yet, intentionally or not, Dahl leaves the impression that once the essential procedures are in place, such dynamics will progress in a unidirectional and unified fashion.

The contributors to this volume complicate this notion. They show that democracy, in the wake of reform moments, has not always or simply grown progressively more liberal and inclusive. Collectively, the authors identify an array of historical patterns that may ensue in tandem or as a result of the dynamics of democratization.

Reforms may indeed foster democratization, but *along different pathways than anticipated.* Some scholars have pointed to the *Brown v. Board of Education* (1954) decision as evidence that courts lack the capacity to foster rights in a meaningful way, given that school desegregation had yet to be implemented years afterward (G. Rosenberg 1991). Yet, Fredrick C. Harris (2006) finds that the decision prompted democratization through a more indirect route. Outside the South, knowledge of the *Brown* decision on the part of African Americans served as the most important determinant of individuals' subsequent involvement in protest activities for civil rights. This collective memory, Harris reasons, most likely signaled expanded political opportunities and favorable conditions for activism, prompting blacks to engage in collective action. The civil rights movement, in turn, helped pave the way for legislative enactments that ushered in far-reaching changes.

In other instances, reforms that expand inclusivity may *simultaneously foster contradictory mechanisms that restrain participation by members of the same group.* Daniel Kryder (chapter 8) illustrates this "bipolar" tendency by examining the expanded use of black police by American municipalities over the course of the twentieth century. While this trend extended greater power and prestige to African Americans, at the same time it permitted additional surveillance and punishment of the black community. New rights may thus come hand in hand with new forms of repression.

Alternatively, the same reforms that grant inclusion to some groups of previously excluded citizens may *simultaneously restratify the citizenry and demote, at least in relative terms, the civic status of those who remain beyond the reach of rights.* As Gretchen Ritter points out (chapter 5), such dynamics have, time and again, relegated women to an inferior civic status. In the nineteenth century, voting was regarded as the central right of citizenship and was extended to white men whether or not they owned property. During the Reconstruction period, when rights were being extended to African American men, advocates of women's suffrage thought the hour had come to secure rights for women to vote, regardless of their state of residence. Yet, through the fashioning and interpretation of the Fourteenth and Fifteenth Amendments to the Constitution, American government effectively separated civil and political rights, and failed to guarantee either to women. Moreover, the courts persisted in construing women as belonging to the domestic sphere and as unfit for the activities of public life. The long shadow of this tradition undermines gender equality in citizenship to the present.

In yet other instances, *new rights may not live up to their promise and may end up*

offering considerably less than full democratic inclusion. The voting rights that were formally extended to African Americans in the Reconstruction era dissipated over time, in practice (R. Smith 1997; Valelly 2004), through a process that might be termed "backsliding." Stephen Tuck (chapter 6) argues that this did not happen swiftly or automatically: African Americans genuinely possessed new rights for a time, but gradually lost them as white supremacy reemerged in new ways in both the North and the South. Illustrating a process that might more appropriately be called "atrophication," Ritter argues in her chapter that the Nineteenth Amendment, though expected to give women full status as citizens, in fact ended up offering much less. The Reconstruction era formulation described above restrained its impact, as women still lacked access to the Equal Protection Clause of the Fourteenth Amendment. Even though they gained voting rights, they remained understood in law as belonging to a separate sphere, apart from the civic realm.

Finally, and counterintuitively, *nondemocratic norms may yet yield democratic practices.* This is illustrated by Tali Mendelberg (chapter 7), who shows that while references to racism in political campaigns are typically regarded as uncivil, only through raising such issues can white voters be prompted to consider whether their views rest on stereotypes, and to reexamine them. And of course, the reverse may also be true: democratic elections may yield victories for those who are less than supportive of full inclusion and lively contestation.

The impact of democratization for *citizenship* has been implicit in this discussion of the historical processes highlighted by this volume, even though it has not usually been the major focus. Each of the studies makes clear that the creation of democratic procedures does not necessarily translate into democratic practice, at least not neatly or simply. By implication, then, the contributions beg the question of how reforms might affect citizenship itself. To illuminate this agenda, we must delve into a more thorough consideration of the actual impact of state development on government's relationship to citizens and on citizens' status before and voice within the state.

Law and Public Policy as Institutions Shaping Citizenship

A promising route for investigating how state development has influenced the extent and form of democratic citizenship over time would be to bridge the approaches of American political development and political behavior. The former is essential to illuminate institutional and historical processes, and the latter, to specify the mechanisms through which these processes influence individual or

collective behavior or attitudes. In the course of such inquiry, furthermore, we must cast our gaze widely enough to capture dynamics across the polity, rather than in just a single, narrow dimension of it.

One of the key themes emerging from this book is that to understand democratization, we must engage in penetrating institutional analysis. It is not enough, Desmond King and Robert Lieberman argue (chapter 1), to take democratic procedures at face value, without considering the state's institutional capacity to enforce them in a manner that extends democracy. Institutional analysis can be applied in a way that reveals how state development influences citizenship, as Gretchen Ritter reveals. She highlights how the law itself acts as an institution that shapes civic membership—and social roles—in profound ways. The Constitution, she tells us, is "an agent of social design" that "creates legal persons and a political community; . . . helps to order the relations among members of that community; and . . . provides a purpose . . . for that community" (Ritter 2006: 15). She considers the Constitution, therefore, to have played a vital role throughout American history in shaping the social order and in assigning civic significance to it. She elaborates on how these dynamics have operated across time with respect to the gendering of civic membership.

Besides the Constitution and judicial decisions, individual policies may also operate as institutions shaping citizenship, as they play a powerful role in defining who is included in the polity, the status of citizens in particular groups, and citizens' exercise of political voice. Citizens experience policies as the "state-in-action," the state bestowing resources on citizens (or failing to do so) and conveying messages to them about their rights and obligations and place in the civic order. As policies affect citizens' civic capacity and inclination, they may, in turn, influence the extent to which citizens participate in the polity and how they mobilize politically (A. Schneider and Ingram 1997; Mettler and Soss 2004).

The actual design of policies—their scope of coverage, basis of eligibility, and form of benefits, for instance—may shape their civic impact, as may the administrative arrangements for and politics of implementation. Here, the sort of analysis pursued by Robert Lieberman would be useful for elucidating such outcomes. In chapter 9, Lieberman highlights the significance accrued to institutional administrative arrangements amid the politics of implementation, when the real meaning and effectiveness of reforms becomes apparent. The Civil Rights Act of 1964 came about, consistent with democratic reform in the United States, within a national state that had long institutionalized and sanctioned the very same undemocratic practices that the new law was meant to eradicate.

Wisely, then, Lieberman's story begins rather than ends with the creation of this landmark legislation, as he turns to analyze the enforcement of Title VII by the Equal Employment Opportunity Commission, which had been granted very limited authority. He finds that organizations outside the state—those associated with the civil rights movement—effectively pushed the commission to succeed in expanding democracy more than would have occurred otherwise.

Consideration of how law and policy influence citizenship calls for a fusion of the historical-institutional approach embraced by Ritter and Lieberman with the behavioral approach utilized by Harris (2006) and Mendelberg. The former approach captures broad trends at the formal political level, which may well have important effects on citizenship, but it does not examine how those effects manifest themselves in citizens' lives and the extent to which they actually matter. Harris and Mendelberg take a much more narrow, fine-gauged approach that illuminates the mechanisms and processes through which political phenomena shape citizens' attitudes and behavior, but this approach is less attuned to how those phenomena fit into political development and intersect with broader trends. In chapter 4, Francisco González takes a step toward integrating these approaches by examining Latinos' degree of "stateness" along three spheres: legality, bureaucracy, and legitimacy. He simultaneously attends both to formal institutional development and to social and economic indicators of their impact among the population, and this enables him to illuminate the low levels of public power possessed by Latinos in the United States today, despite their growing numbers. This sort of analytical linkage between state development and individuals or groups is crucial for illuminating the development of citizenship.

Historical Processes and Citizenship

An elaboration of the political processes through which state development shapes citizenship across time requires historical analysis. As shown earlier in the chapter, the contributors to this volume embrace such analysis and use it productively to illustrate how timing and sequencing matter in politics (Orren and Skowronek 2004; Pierson 2004). By applying such analysis to the study of citizenship, we may be able to specify processes that ensue across time. Here I consider, first, how policies may influence the intensity of civic engagement among those they affect directly and, second, how political dynamics across the polity may inadvertently affect the civic status of individuals who might seem far removed from their impact.

In some instances, policies may foster what could be termed "increasing returns" or positive feedback effects for democratization, fostering a greater inclusivity or contestation that spurs heightened civic engagement. Citizens who have gained access to new legal or social rights, for example, may as a result become more fully incorporated into the polity, and this may in turn spark higher levels of participation among them. Among non-black male veterans of World War II, those who benefited from the GI Bill's education and training benefits not only gained valuable social rights but also became significantly more involved in civic organizations and politics during the postwar era than comparable nonbeneficiaries (Mettler 2005). In effect, the policy facilitated an *amplification* of the political voice of such citizens: rather than simply "leveling the playing field," the new rights led to the development of "super-citizens" whose influence on the polity became more pronounced.

Alternatively, policy receipt may in turn render citizens likely targets of *mobilization* by political groups and elites, strengthening their capacity to generate government responsiveness. Social Security and Medicare, for instance, have been found not only to play a crucial role in alleviating poverty among senior citizens but also to serve as the basis on which less advantaged seniors are mobilized. As a result, seniors have become significantly more active in the political system than would otherwise be the case (Rosenstone and Hansen 1993; A. Campbell 2003).

Not all policies that are associated with the extension of rights will necessarily spur increasing returns for democratization, of course. Some may undermine citizens' sense of civic efficacy. The prior version of welfare, Aid to Families with Dependent Children, actually diminished recipients' sense of political efficacy as it brought them into contact with government agencies that were unresponsive to their needs. From such experiences of government, individuals extrapolated that it had little relevance to their lives (Soss 1999; King 2005b). The meager benefits that welfare beneficiaries received were not offered as rights of citizenship, but rather were conditioned on means-testing and numerous other invasive rules and procedures (Mettler 2000). The program conveyed, through a process of *stigmatization*, a sense of the inferior status of recipients rather than a notion of equal citizenship.

As the contributors to this volume also imply, it makes sense to widen the parameters of analysis in order to capture the fuller array of political dynamics that may influence the development of citizenship. In some cases, we must consider how democratic reforms affect *people other than those who are targeted directly.* As

Kryder demonstrates (chapter 8), the same policy that bestows civic status on some citizens may at the same time disadvantage others. Such policies may, in effect, foster increased *stratification* in the polity by exacerbating the differences in civic status and influence between citizens.

Although scholars often note, for example, that the United States qualifies as an "early democracy" by virtue of the timing of its extension of voting rights, some women lost the right to vote even as men gained it. During the colonial period, a few colonies permitted women who owned property—typically widows—to vote, on the basis that such ownership gave them the independence that was requisite to full citizenship. New Jersey continued this practice until 1807, when the state enfranchised propertyless males and at the same time disfranchised all women (McDonagh 1994, forthcoming; Gundersen 1996: 63–70; Keyssar 2000: 54). Thus citizenship became delineated by gender—and by race—instead of by class, and these cleavages, in turn, became tremendously important in American politics.

Turning to the twentieth century, once again the fuller inclusion of male citizens led to the lowering of women's civic status. Even as the GI Bill elevated the stature of a vast proportion of men of the World War II generation, it simultaneously increased the gap between men and women. Women constituted only 2 percent of the World War II military, and thus very few qualified for the bill's education and training benefits. As a result, women were deprived of the experiences of inclusion in the polity that had proven so effective in bolstering men's civic involvement. Not only did the provisions provoke an increase in the educational gap between the sexes, but they also, in turn, exacerbated the disparity in political participation.

By the same token, we may need to consider *political dynamics other than those that are most directly related to reforms*. Indeed, in some instances, policies or events in the polity that might seem unrelated to the policy in question may nonetheless alter its influence on citizenship. Mary Dudziak (2000) illustrated such dynamics by explaining how U.S. foreign policy concerns during the Cold War spurred the adoption of civil rights policy.

Arguably, another exogenous factor, the rise of economic inequality, has led to the *curtailment* of civil rights achievements. Less than a decade after enactment of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, when the racial wage gap had begun to diminish and African Americans had just started to share in the benefits of the postwar boom, the economy suddenly soured (Heckman and Payner 1989; Donohue and Heckman 1990). The dispar-

ity between the incomes and wealth of the most affluent Americans and of the poor and middle class began to widen, and it has continued to do so. In the new American society that has emerged in recent decades, highly educated and professional people find their skills to be in demand and their incomes continue to rise. Notably, by sharp contrast to the pre–civil rights era, some African Americans do number among the new elite. But the vast majority of Americans have seen slow growth of their incomes at best and, for many, a deterioration in real terms, and even those with middle-class incomes experience far greater volatility in earnings than in the past (J. Hacker, Mettler, and Pinderhughes 2005). Non-elderly Americans experience a partially tattered safety net, and one that is insufficient to address the new risks of the modern economy (J. Hacker 2004; Mettler 2007). Strikingly, even though outright racial discrimination has declined sharply in American society compared with four decades ago (Page and Shapiro 1992), the fault lines of the new inequality bear striking similarity to the old, racially drawn cleavages. Most African Americans continue to have family incomes below the median level, and they are nearly three times as likely as white Americans to live in poverty (U.S. Census Bureau 2005). The racial wealth gap stretches even more widely than the income gap, making African Americans' journey into middle-class suburbs a far slower process than might have been anticipated in the early 1970s (Kennickell 2003; T. Shapiro 2005).

Thus, the significance of the civil rights achievements notwithstanding, these formal statutes cannot be said to have granted full and meaningful equal citizenship to African Americans. Robert Dahl (1971: 82; 1989: 114–15) has often commented that in nations with high degrees of economic inequality, wealthy citizens possess greater political resources and influence than nonwealthy citizens, thus imperiling the ideal of equal opportunity to participate. Indeed, the contemporary United States is afflicted by these dynamics, and they reinforce racial inequality. Data collected in 1990 show that African Americans, on average, participate in 1.9 political acts annually, compared with 2.2 acts by white Americans (Verba, Schlozman, and Brady 1995: 232). Voter turnout rates continue to be lower among blacks: even in the 2004 election, which featured relatively high participation, only 60 percent voted, compared with 67 percent of whites (U.S. Census Bureau 2005). (Only in 2008 did election turnout improve to 61% nationally and close to 80% for African Americans.) As a result, elected officials hear less from African Americans and so are necessarily likely to be less responsive to their needs and concerns. Democratization in the United States

can hardly be said to be a completed process, though the improvement in turnout in 2008 is a positive development.

Conclusion

Throughout American history, the nation's political thought and rhetoric has swelled with sentiments about democracy. A ripe research agenda awaits those who would analyze when and how U.S. state development has actually fostered the expansion of democracy and when it has failed to deliver on such promises, or even forced contraction. This volume goes a long way to further this compelling project. It illuminates how democratization has occurred in a context in which some democratic practices have developed long in advance of others, and it shows how existing political institutions, laws, and policies have influenced the shape and timing of subsequent reforms and the extent to which they succeed.

At the heart of democratic ideals rests the ordinary citizen and his or her relationship to a responsive and accountable government. In order to understand the extent to which modern governance—in the United States or elsewhere—is "of the people, by the people, for the people," we must turn our attention to citizenship.

Moving beyond the task of assessing whether democratic procedures exist and how they came to be, we should consider what difference they make in guaranteeing inclusivity, fostering equal participation among citizens, and encouraging free and open contestation. We need to be attentive to how their capacity for ensuring democratic practice has changed over time in response to alterations in the policies themselves or other occurrences in the polity.

Democratization in the United States has been anything but a steady and linear process. Rather, a variety of processes may better describe the complex and varied pathways that ensue in the wake of democratic reforms. Sometimes democratic reforms have led to even greater civic engagement among those affected than might have been expected, fostering the amplification or mobilization of their political voices. In other instances, policies that might appear to have "leveled the playing field" may in fact have promoted the stigmatization of some citizens, depressing their political involvement. Policies may have an impact on the citizenship of individuals beyond their reach, sometimes leading to stratification of the citizenry as the status of some is elevated over others, or if some citizens develop a stronger tie to government while others do not. Alternatively, exoge-

nous factors may intervene that lead to a curtailment of policies' effects on democratization.

This brief overview is suggestive rather than exhaustive. An examination of numerous areas of policy and law could further illustrate the processes through which citizenship has developed in the United States. In the next chapter, Lawrence Whitehead, Desmond King, and Gretchen Ritter offer some rich examples in their discussion of the extension and rollback of civil liberties, the treatment of Native Americans and the undocumented, and redistricting and electoral politics. These topics and many others would provide examples of the complexity of American democratization, which has often proceeded in nonlinear and paradoxical ways, particularly with respect to its impact on the scope and vibrancy of citizenship. This rich research agenda promises to take scholars further in understanding the essence of American political development.

CHAPTER ELEVEN

American Political Development and Comparative Democratization

Laurence Whitehead, Desmond King, and Gretchen Ritter

Although democratization may typically occur in surges (short periods of advance when preexisting obstacles are dismantled or overcome), there can also be long periods of stasis and, sometimes, compressed episodes of reversal (Whitehead 2002). The United States is exceptional when compared with all other existing democracies in that its political "rules of the game" have been stabilized (or rigidified) through the permanent application of an enduring written Constitution, actively interpreted for at least two centuries by an authoritative and assertive Supreme Court. This "constitutional order" preceded most of the provisions that we currently associate with a modern democracy (no slavery, universal suffrage, race and gender equality), but from the period of enactment it incorporated a reasonably specific Bill of Rights. So, if U.S. democracy is conceived as an impersonal system of sovereign government, with division of powers, federalism, a permanent and effective Bill of Rights, and stable rules of the game ensuring the periodic and routinized alternation of all public officeholders, this has existed (and indeed flourished) in North America longer than anywhere else.[1] Some crucial elements of this liberal system even preceded the War of Independence.

Most distinctive, for the purpose of this book, is the immutability of this constitutional order when compared with other long-established competitors. In this concluding chapter, we investigate the parameters of this constitutional immutability and the agenda it suggests for scholarship on American political development.

Our point of departure is the analyses set out in the preceding empirical and theoretical contributions. In chapter 1, Desmond King and Robert Lieberman began by advancing a framework that focuses on aspects of the state and the problem, in particular, of the enforceability of rights. We propose that this framework potentially offers a new perspective for explaining the historical advance and episodic retreats of American democracy. This analytical framework is employed in different ways by the chapter authors. A first way concerns how best to understand democratization. Laurence Whitehead (chapter 3) highlights the distinctive process of nation-building, whereby the expansion of U.S. democracy was channeled through the incorporation of new states—political units more fundamental within the U.S. constitutional order than their equivalents in any other polity, with legal rights that ultimately can trump those of individual voters (as illustrated in the presidential election of 2000). Whitehead also illuminates the anomalous status of Puerto Rican citizens in the U.S. polity. Gretchen Ritter (chapter 5) develops a reinterpretation of the evolution of the U.S. Constitution and American citizenship in terms of its gender-defining content. She argues that with gender taken into account, the process of American democratization is best seen as a continuing struggle about the terms of membership in "We, the People." Driving this struggle are competing claims about individual freedom and the social order prerequisite to a democratic constitutional order. Such claims inherently give rise to an open-ended process of political development (Orren and Skowronek 2004). The potential for reversal in democratization can be inferred from Stephen Tuck's (chapter 6) account of how African Americans' voting rights were systematically retrenched after Reconstruction (see also Valelly 2004).

The second way in which King and Lieberman's framework is employed concerns the enforcement of public power and rule of law. Thus, while the chapters by Ritter, Whitehead, and Tuck open up the dynamic and continuing nature of democratization in the United States, one powerful manifestation of this process is the issue of enforceability, especially enforceability of public authority to guarantee equal rights of citizenship, including voting rights, across the polity. This issue is central to Daniel Kryder's discussion (chapter 8) of police behavior: he finds significant bias in policing of white and black Americans, especially during key historical moments such as World War II. Lieberman (chapter 9) explains how the American state's comparative distinctiveness affected the enforcement of civil rights after the 1960s. The relative weakness of the political center led to a distinctive public-private associational pattern of enforcement.

A third issue flowing from our analytical framework is the reconstruction of national memories of how the United States' political development has unfolded. In his article published in *Social Movement Studies*, Fredrick C. Harris (2006) gives us an important instance of how, historically, collective memories of racial inequalities helped drive the civil rights activists and reformers, whose movement's work culminated in the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Harris shows how certain shared memories—for instance, about the Emmett Till murder—helped inspire activists to reform the parameters of American democracy. Tali Mendelberg (chapter 7) takes the development issue a step further in her study of how electoral campaigns, in which many issues concerning racial equality and differences are implicit, can become forums of deliberation in which the incivility associated with making explicit the profound racial inequalities can be reconsidered in constructive ways. This reconstruction of national memory clearly affects the future as well as revising the past. The place of Latinos in this evolving political order is plainly crucial: Francisco González (chapter 4) considers what kinds of roles they play in broadening and deepening American democracy, and what the barriers to their acquiring a full role reveal about American democracy.

These various contributions lead to the issues posed in this concluding chapter, which centers on the tension between the permanent constitutional framework and the possibility of development within that framework. In their important work on American political development, Karen Orren and Stephen Skowronek (2004) write about this process as one in which there are durable shifts in governing authority. We find this definition valuable and take it to describe the intellectual outcome of many of the processes examined in this book. However, the notion of changes in the governing authority can be fleshed out further through explicit attention to comparative democratization issues, as our contributors have done and as we set out to do in this chapter. U.S. constitutionalism may be exceptionally long lived, and the Supreme Court may exercise extraordinary authority as the final arbiter of the political rules of the game (and therefore as a meta-political actor), but this is only a limited case of characteristics that are present in a considerable number of other democracies, both old and, some, relatively new. Canada, for example, still contends with periodic political challenges that have the potential to drastically rewrite its constitutional system according to radically different—though legally unbroken through time—democratic principles and practices. The politics of constitutional continuity and democratic revision also demand comparative analysis in other major countries,

including Brazil, Chile, India, Italy, Mexico, and South Africa. These comparisons carry implications for American political development, and the exceptional rigidity and stability of the U.S. example also carries implications for these other states. There are lessons both positive and negative.

In this exploratory volume, we have not been able to touch on more than a limited proportion of the topics that merit reexamination from a comparative democratization perspective. Among the notable omissions are the political economy dilemmas that confront all national democratic regimes in today's globalized market environment. Yet core liberal concepts such as "accountability," "rule of law," and electoral choice will gain traction with contemporary electorates only if they include consideration of such dilemmas. Take such questions as: Who is to decide, and how should it be determined, when a financial crisis forces taxpayers to socialize the losses of private banks and investment institutions? How are the resulting burdens to be distributed, for example, between the managers who receive their reward during the genesis of the crisis and the mass of taxpayers who find themselves assigned the role of residual credit underwriters? How is the disconnect between electoral processes and these complex distributive decisions to be bridged? How are wrongdoers to be held responsible for the public cost they create through their use of private capital? What kind of American democracy is needed to limit the scope for successive rounds of systemic financial crisis?

We begin with the Bill of Rights as a framework for democratization.

The Bill of Rights and Democratization

The Bill of Rights seems immutable. How does it frame the process of democratization in the United States? There may be three different ways of considering this question. The first involves an examination of the democracy envisioned and established by the Bill. The second concerns the way that the Bill has been subject to change over the course of American constitutional development. And finally, we might also look at the Bill in relation to struggles over democratic incorporation and inclusion or exclusion waged by previously marginalized groups such as African Americans, women, and immigrants.

The Original Vision of the Bill of Rights

At the time the U.S. Constitution was ratified, it was understood that a Bill of Rights would be added by the new Congress to further bolster individual rights

and popular sovereignty and to protect against possible encroachments by the federal government. Because of this understanding, the Bill of Rights, the first ten amendments to the Constitution, has generally been viewed as part of the original constitutional design: without the commitment to these ten amendments, the Constitution might not have been ratified.

The Bill articulates a vision of politics that fosters civil society and shields people, both in their community associations and in their personal lives, from the intrusion of the federal government. Religious freedom, freedom of assembly, speech, and the press, the right to bear arms, and the reliance on state militias and impartial juries all suggest recognition of the role of citizen associations in nurturing a commitment to justice and the common good. Yet, in its protections against unreasonable search and seizure, established religion, standing armies, the quartering of troops, and indefinite imprisonment without charge, the Bill protects individuals against a potentially partial, self-serving, and overbearing federal government. The key political values expressed in the Bill are those of liberty for individuals and for democratic majorities and the rule of law as a restraint on government authority. Akhil Reed Amar (1991) suggests that "the People" of the Preamble are also "the People" of the Bill (as expressed in the First, Second, Fourth, Ninth, and Tenth Amendments)—they are the democratic sovereigns imagined in the principle of popular sovereignty.

What sort of foundation does this rights-protective political structure provide for democratization? Perhaps the two most important aspects of the Bill include its enforcement provisions (which exist in connection with the constitutional structure as a whole) and the connection that the Bill supplies between rights and democracy through its encouragement of intermediate associations in civil society. Enforcement, as Justice William Brennan (1989) said, is necessary to make rights meaningful. In its reliance on the rule of law, and its provisions for limiting excessive exercises of government authority, the Constitution supplies a governing structure that is conducive to rights enforcement. With regard to rights and democracy, in considering the purported tension between majority rule and individual rights, Robert Dahl (2002: 135) argues that "far from being a threat to fundamental rights and liberties, political equality requires them as anchors for democratic institutions." Rights serve as precursors to democratic participation—they allow citizens to debate, consider, and contend over the interests of the community, without fear that their views or activities will be held against them.

Yet, were all Americans part of the democratic political community invoked

by the Constitution and protected by the Bill of Rights? And to what degree did the Bill articulate a notion of political equality and protect political rights of participation such as voting? To answer these questions, it is important to keep three things in mind. First, the rights articulated in the Bill were part of a federal political structure in which the states were seen as the true representatives of local political interests and sentiments. Second, the political rights of citizenship, to the degree that they were recognized and protected at the time of the Founding, were seen as rights connected to state citizenship. Consequently, the Guaranty Clause in Article IV, Section 4, of the Constitution guarantees to "every state" a "republican form of government," which was generally understood to include democratic political rights, such as the right to vote. Third, it is clear from other parts of the Constitution (e.g., Article IV, Section 2) and from the political debates surrounding its creation that not all of the people governed by the Constitution were imagined as members of the rights-bearing democratic political community protected by the Bill. Clearly, married women and slaves were not seen as members of that political community and, in all likelihood, neither were white men without property (Becker 1992; Foner 1999). Amar (1991) contends that "the People" of the First, Second, Fourth, Ninth, and Tenth Amendments were the citizens with full rights—those who held property, served on juries and in the militias, assembled to petition the government, and voted under the laws of their home states. Those who were without property, or who were barred by state law from owning property, bearing arms, serving on juries, or voting, were not the rights-bearing members of the political community envisioned by the Bill. By establishing a link between democratic participation and fundamental rights, the Bill offered powerful tools to those who aspired to democratic inclusion. Yet, in implicitly endorsing a more limited vision of that democratic political community, and protecting this more constrained vision through its reliance on federalism and the ability of states to restrict political rights, the Bill also allowed for the continuation of democratic exclusions.

The Bill of Rights over Time

Much of this changed with the Civil War. According to Hendrik Hartog (1987: 1017), "the long contest over slavery did more than any other cause to stimulate the development of an alternative, rights conscious interpretation of the federal constitution. Still, a modern American understanding of constitutional rights could only become embedded in the Constitution after the Civil War and eman-

cipation." The war wrought fundamental changes to the American constitutional order, including changes in the nature of federalism and in the relationship between the people and government authority. Before the war, the federal government was seen as the greatest threat to rights, and the rights that were protected were both individual and majoritarian in nature. After the war, state governments were viewed as potential sources of abusive authority, and the federal government as the defender of individual rights, including the rights of minorities who were threatened by overbearing majorities. The meaning of the Bill was altered by the Reconstruction (the Thirteenth, Fourteenth, and Fifteenth) Amendments, which are now seen as extending and securing the Bill. "Together with the Civil War Amendments, outlawing slavery and involuntary servitude and insuring all citizens equal protection of the laws and due process of law, the Bill of Rights stands as a constant guardian of individual liberty" (Brennan 1989: 425).

Nor was this the last occasion on which the Bill was redefined through changes in the American constitutional order. Struggles over the meaning of the Constitution have been struggles over the meaning of freedom. "The meaning of freedom has been constructed not only in Congressional debates and political treatises but on plantations and picket lines, in parlors and bedrooms" (Foner 1999: 231). Twentieth-century American ideals of freedom and constitutional rights were shaped by the world wars (Kryder 2000) and the Cold War (Dudziak 2000). American democracy and the free enterprise tradition are what sustained the United States in its struggle against fascism; the nation represented itself as committed to social pluralism, as against the Nazi commitment to racial supremacy. "It was during the war that a shared American Creed of freedom, equality, and ethnic and religious 'brotherhood' came to be seen as the foundation of national unity" (Foner 2001: 3). The Cold War reinforced the U.S. commitment to racial equality, but also helped entrench a negative ideal of rights as government non-interference, in contrast to the communist ideal of substantive social rights (housing, health care, and employment, and so forth).

The historical meaning and importance of the Bill of Rights to American democratization arises from internal struggles over the political inclusion of previously marginalized groups, and external political engagements, such as World War II, the Cold War, and the "War on Terror." Robert Dahl (2002: 99) emphasizes the importance of political culture in maintaining rights: "in the end, a democratic country cannot depend on constitutional systems for preservations of its liberties. It can depend only on the beliefs and cultures shared by its polit-

ical, legal, and cultural elites and by the citizens to whom those elites are responsive." This is particularly true in times of war or other periods of crisis: "If a country is to maintain its democratic institutions through its inevitable crises, it will need a body of norms, beliefs, and habits that provide support for the institutions in good times and in bad—a democratic culture that is transmitted from one generation to the next" (138).

The Bill of Rights as an Instrument of Democracy

In considering the role of the Bill of Rights in American democratization, it is pertinent to consider the history of different political movements—both those that sought to expand rights and foster democratic inclusion, and those that sought to limit rights and promote political exclusions. In each instance, what role did the Bill play in defending or extending rights and facilitating political inclusion?

Women's rights advocates of the nineteenth and twentieth centuries gained little from the Bill of Rights. As noted by Mary Becker (1992: 454), "the Bill of Rights does less to solve the problems of women and nonpropertied men than to solve the problems of men of property, especially white men of property." In the social order imagined and constructed under the Bill during its first century and a half, the presumption was that men were masters of their households. Male rights were protected by the amendments that shielded the home (e.g., the Third, Fourth, and Fifth Amendments), and legally, violations against men's "natural" dependents (wives, children, servants, or slaves) were violations against their masters. Likewise, public rights protected (e.g., by the First, Second, and Fifth through Tenth Amendments) were the rights of the democratic citizenry, an independent body of men. As Ritter notes (chapter 5), this may help us understand why the women's rights movement of the nineteenth and early twentieth centuries became so focused on the vote as a way of gaining rights for women, and thus claiming their status as public persons.

Perhaps the Bill of Rights did not assist women, or other previously subordinate groups, until they could claim the status of public persons, but it is still possible that the Bill constrained the efforts of groups that sought to limit rights and exclude certain groups from the democratic community. In periods of war emergency, high levels of immigration, or labor violence, the public freedoms protected by the Bill are substantially eroded. One need only recall the deportation of immigrants in World War I by Attorney General A. Mitchell Palmer, or the

losses and indignities suffered by Japanese Americans who were sent to relocation camps in World War II, or the erosion of the freedom of association instigated by the House Un-American Activities Committee during the Cold War to realize that this was so. Indeed, under the provisions of the Patriot Act, the current War on Terror has led to a new round of tension between government disregard and civil liberties in the name of preventive justice. But perhaps that is to be expected. The issue may not be whether the federal government reacts to national emergencies by undermining the civil liberties of "suspect" groups in the population, but whether these temporary erosions have a lasting impact on the rights and membership of those within the national political community. Some commentators are optimistic about the vibrancy of an American rights culture that ultimately produces a backlash against war-related civil liberties restrictions (Goldsmith and Sunstein 2002). Others are less sanguine. Oren Gross (2003) contends that the "emergency" restrictions undertaken in times of war often have a lasting institutional impact of concentrating government authority at the expense of democratic and individual rights. Reflecting on this debate, Ronald Krebs (2007) suggests that the type of war or national emergency one is engaged in matters a great deal. That the United States has only rarely experienced combat on domestic territory may serve to limit the lasting impact of emergency powers on civil liberties.

This review suggests that three factors are relevant in determining the impact of the Bill on rights and democratic inclusion: institutional structures, political culture, and political contestation. It matters that rights are enforceable in the United States, under the terms of a political structure that gives a strong role to the judiciary as a potential check on the power of the other two branches of government. Then again, the American constitutional structure provides mechanisms that facilitate political exclusion and civic hierarchy, and especially important is federalism, which has historically acted as a limit on rights claims by various marginalized political groups. With regard to American political culture, Foner, Hartog, and Dahl are surely correct to emphasize the vibrancy of a political tradition in which claims of freedom and equality resonate widely. Yet this is also a political culture in which national political membership is often encoded in racialized and gendered terms, so that for most of American history, women, African Americans, and other ethnic minorities were not readily imagined as members of the democratic community of independent, virtuous citizens envisioned as "the People" of the Preamble and the Bill of Rights (R. Smith

1997). But finally, the political community of "the People" is not fixed by the Constitution, as rights-conscious groups throughout American history have sought to expand the boundaries of that community to include the previously excluded. This dynamic of expansion and contraction takes us to a broader view of how the nation's constitutional order functions.

Constitutional Order and the Stress Testing of U.S. Democracy

The immutability of the United States' constitutional order has reinforced its effectiveness throughout U.S. society and creates the self-fulfilling expectation that it will last forever. This provides an indispensable underpinning to the perceived "immanence" of "American democracy"—the self-assurance in Washington about "democratization" at home and abroad (this has been the setting for negative external scrutiny of U.S. practices; see Dudziak 2000). Yet, as the American political development literature demonstrates, and as this volume has underscored by reference to the comparative politics literature, the democracy existing in the United States today (understood in terms of complete rights of participation and voting, for example) was not fully formed from the outset, and even now is not perfect or finalized (on the Electoral College, for instance, see G. Edwards 2004). Instead, it was produced by bursts of democratization—this volume has highlighted race and the civil rights movement as originators (for electoral effects on this dynamic, see Mayhew 2002: 157–61)—and even in North America, democracy could, in principle, be eroded or indeed reversed in episodes of extreme political stress (as demonstrated by Stephen Tuck in chapter 6; see also Valelly 2004). The post–September 11, 2001, period provides some recent reminders that such reversals cannot be entirely ruled out, even in the most "immanent" of democratic systems. And many commentators are exercised by the de-democratization experienced by former felons in some states, who lose their right to vote indefinitely, even when their prison term is complete, a practice that two scholars judge to be "unique in the democratic world" (Manza and Uggen 2006: 41). At present, in eleven states, former felons lose forever the right to vote, and two states disfranchise recidivists—Florida in 2008 gave the vote to some former felons; several million potential voters are affected (Brown-Dean 2007). As the prison population in the United States is not a random cross section of American voters, neither are the effects of felon disfran-

chisement random with respect to race or income. Felon disfranchisement became salient again after the 2000 presidential election and, interestingly, the Republican governor of Florida restored the right to vote to certain categories of former felons, potentially numbering 112,000 voters.

These practices and trends raise the question of how to analyze the relationship between an apparently immutable constitutional order that precedes and underpins today's modern democracy and the still open possibilities of further democratization (or reversal) within the framework of this permanent order (on war as an exogenous stimulus to policy change, see Mayhew 2005). In comparative terms, it seems evident that the American institutional framework has tended to lengthen the periods of stasis and to channel the surges of democratization in stabilizing directions. It may also follow that, at least compared with the experience of less well-institutionalized democratic regimes, immutable constitutionalism could limit the damage inflicted on U.S. democracy during periods of extreme political stress.

This comparative hypothesis is very approximate, however. Further analysis would be needed to specify its precise scope and limitations. If the constitutional order is robust enough to extend periods of stasis (to limit surges and reversals), how, precisely, does this work, and with what consequences? For example, by postponing the protection of the voting rights of African Americans until so many had migrated north, did the federal system stabilize U.S. democracy (avoiding violence)? Or did it obstruct what would otherwise have been a more incremental and society-based process of interracial democratization? As this example demonstrates, there is still room for disagreement about the course and quality of the democratization surges that are possible within this immutable constitutional framework. The same is also true when considering the possibilities of reversal.

We hope that this comparative framework will open up various avenues for further investigation, highlighting hitherto overlooked aspects of American political development, or casting well-known phenomena in a new light. The issue, noted above, of under what conditions civil liberties might have to be suspended or abridged in times of acute political stress (typically in wartime, but also in periods of international tension falling short of war, such as the Cold War and the post–September 11 period), is one such area of great contemporary significance, not only in the United States but in all established democracies. We sketch here some provisional observations on this issue, derived from the

Civil War, as an illustration of the type of further work that could prove fruitful for students of comparative democratization.

One of the immutable features of the constitutional order established in 1787 was supposed to be its protection of a range of legally prescribed freedoms. But this protection had to be weighed against the potentially conflicting imperative of preserving the constitutional order itself. In the last resort, all democracies (all constitutional regimes) require criteria for arbitrating between these ultimately competitive necessities. This is where the legal doctrine of "emergency powers" makes its entrance. Under what circumstances, within what time limits, and subject to what forms of retrospective accountability does the Constitution authorize which public officials to exceed the restraints normally placed on them by the prevailing charter, and in what ways? Even during the War of Independence, the British monarch was not permitted to suspend habeas corpus (although parliament, in its sovereignty, could do so). So what emergency powers were constitutionally available to President Lincoln once the South had attempted to secede from the Union? What powers were legally available to President Roosevelt during World War II? And what could Commander-in-Chief George W. Bush legitimately do in the course of his War on Terror? This fundamental question is typically analyzed, within the framework of U.S. constitutional politics, as a question of jurisprudence. But from a comparative democratization perspective, it also raises issues concerning the scope for expansion of democratic rights during periods of increasing tolerance, diversity, and collective security, and their restriction (or even revocation) during periods of perceived internal disunity or external danger. (The importance of the Supreme Court's decision in *Rasul v. Bush* [2004], holding that the suspected terrorists held in Guantánamo Bay had a right to trial before military tribunals, rather than indefinite confinement, prevented one manifestation of such a reversal.)[2]

Daniel Farber's (2003) scholarly discussion of Lincoln's constitutional reasoning during the Civil War absolves Lincoln from the charge of dictatorship, interpreting his conduct as legally justified in essence. Farber notes that in August 1862, as the Civil War gathered momentum, the Lincoln administration suspended the count of habeas corpus. At first this was contested on the grounds that only the legislature, not the executive, had been granted such power (under Article I, Section 9, of the Constitution—"when in Cases of Rebellion or Invasion the public Safety may require it"). But in March 1863, Congress declared by statute that the president did indeed have the power to suspend habeas corpus. Lincoln

had argued that, because the Constitution did not specify who had the power to act in this way, and because in some cases rebellion might even prevent Congress from acting, it must have been intended that when necessity arose the president could do this. The Supreme Court reviewed the constitutionality of this action in 1866 in *Ex parte Milligan*.[3] This concerned the case of Lambden P. Milligan, who had been sentenced to death by a military commission in Indiana during the Civil War on the grounds that he had engaged in acts of disloyalty. Milligan petitioned to be released by a federal court on the grounds of habeas corpus. The Supreme Court ruled that Lincoln had exceeded his constitutional authority in suspending habeas corpus in areas where the federal authority had not broken down, in the sense that the civil courts were still operating. This important case showed that there are limits on executive power to suspend democratic rights. But since *Milligan* was not decided until the Civil War had ended and after the assassination of Lincoln, it also highlights the historical challenge of enforcing and protecting habeas corpus rights in a democratically rigorous way.

The Court has taken a different view at other times. In its 1909 *Moyer v. Peabody* ruling,[4] the Court authorized a state governor to use deadly force if needed to suppress an insurrectionary strike, and therefore also allowed the detention of prisoners during such an emergency. Because, under the militia act, the president was empowered to call out the militia, it could be deduced that this implicitly authorized him also to declare martial law, and hence to suspend habeas corpus. Similarly, it could be argued that the president's status as commander-in-chief equally implies having the emergency powers to suspend habeas corpus and declare martial law (under certain circumstances, and subject to prospective or retrospective congressional authorization). While Farber (2003) acknowledges some excesses and misjudgments, his main conclusion is that this type of reasoning provides sufficient cover for the conclusion that Lincoln operated within the parameters set by the U.S. constitutional order, parameters that may be viewed as permanently applicable (immutable) rather than as historically contingent or malleable social constructions.

But even so, in his afterword (written following the September 11 attack), Farber appreciates the need for some elements of a developmental perspective on these constitutional issues. "As Lincoln recognized, the Constitution was an exercise in nation building . . . During times of peace and prosperity it is easy . . . to forget the overriding purpose of creating a central government strong enough to ensure the nation's security and prosperity. It is only when we come

to hard times—like those of the Framers—that we realise why we really need a federal government" (Farber 2003: 198).

Interpretations of the constitutional provisions concerning emergency powers and war powers have fluctuated over time and space. Scholarly judgments of the extent to which Lincoln abused his powers during the Civil War were altered by the experience of similar conditions of danger and division in World War I, for example. Mark Neely (1992) concludes the epilogue to his book with an assessment that confronts overconfident assumptions about the immutability of the U.S. constitutional order and supports the alternative intuition that, even in this case, the future of freedom is open-ended and subject to political contestation: "If a situation were to arise again in the United States when the count of *habeas corpus* were suspended, government would probably be as ill-prepared to define the legal situation as it was in 1861." He adds, rather alarmingly, that "the clearest lesson is that there is no clear lesson in the Civil War—no neat precedents, no ground rules, no map. War and its effect on civil liberties remain a frightening unknown" (Neely 1992: 235).

Currently, even old democracies such as the United Kingdom and Denmark have proved willing to contemplate surprisingly drastic revisions to the balance between protection of citizen rights and constraints on liberty viewed as necessary for the protection of public security. Such issues are often bitterly contested in newer democracies, where trust in the justice system is far lower and the legacies of official abuse under authoritarian predecessors remain vivid. Here too, although the U.S. experience may be distinctive and even, in some respects—given the litigiousness of the society—a limited case, there is still much that can be learned by pursuing a systematically comparative approach. This approach can sharpen our understanding of the conditions favoring or undermining the protection of basic citizen guarantees worldwide. It could also clarify the extent to which certain distinctive features of the U.S. justice system—such as capital punishment, high rates of incarceration, restrictions (in some states) on the voting rights of former felons, or the selective use of deportation and extradition warrants—represent the future of democratic governance or can be seen as aberrations ripe for reform.

Constitutional Order and Aboriginal Peoples

Many of the empirical cases in this book concern the struggles of African Americans to achieve the enforcement of rights of citizenship. But the story of Amer-

ican political development and democratization also includes women, Latinos, and Chinese Americans, among others. One such case for which comparative democratization studies might cast familiar U.S. history in a new light concerns the relationship between the prevailing constitutional order and North America's Aboriginal peoples. Here, comparison with Canada is instructive (although, of course, Canada is not the only possible comparator—Australia, New Zealand, and indeed Brazil also merit consideration).

Both Canadian and U.S. democracies originated as settler governments that meted out "poor treatment" (if not "genocide") to the Aboriginal peoples of North America. Their Aboriginal policies share a common origin, the Royal Proclamation of 1763, which recognized that the "Indian" nations were independent and should be dealt with through treaties by central authorities, while simultaneously denying them full sovereignty or equality with European nations. By the 1830s, however, the policies had diverged, with Canadian policy predicated on a disregard for First Nation governance, "while American [U.S.] policy was founded on a begrudging acceptance of tribal governance" (Brock 2000: 342). In Canada, therefore, "civilization" and segregation became the dominant policy themes of the ensuing century, and these entailed direct intrusion into the internal politics and social life of First Nations. ("Indians" were placed on reserves and encouraged to become good Christians, sturdy farmers, and loyal Britons/Canadians.) Canadian policy changed after World War II, and the right of First Nation peoples to vote in federal elections was conceded in 1960. In 1973, the Supreme Court of Canada accorded Aboriginal title formal legal recognition, and in 1982, the Canadian constitution was amended to affirm (and therefore define and extend) Aboriginal rights.

In contrast to this centralized and systematic approach, U.S. legislation on Native Americans comprises more than five thousand federal statutes, two thousand federal court opinions, and nearly four hundred ratified treaties and agreements, all loosely administered by the U.S. Bureau of Indian Affairs. Nineteenth-century U.S. policy differed from that of Canada in that American Indian self-government was less directly regulated from without (although, when U.S. courts acquired authority over major crimes committed in American Indian communities, this struck at the heart of tribal governments). American Indians' autonomy was rapidly eroded at the end of the nineteenth century, first through the (Dawes) Allotment Act of 1887 (providing for division and possible sale of Indian lands) and then by the assimilationist strategy inherent in the unilateral conferment of U.S. citizenship on Indians, in 1924. "Americanization" of Indian

children through schools complemented this strategy. Although the New Deal saw some reversal of the previous trend toward the erosion of tribal self-government, U.S. policy continued to aim for the assimilation of Indians into American society as equals and full taxpayers, still relying heavily on education.[5] In contrast to Canadian paternalism, therefore, U.S. individualism persisted in eroding communitarian and collective principles of Aboriginal government.

At the end of this long process, the Aboriginal peoples of Canada are following the lead of Quebec in seeking to anchor their rights in the constitution in order to provide a more secure future for their governments (another public occasion to agree on rights and obligations was held in November 2005 between First Nation peoples and the Canadian government). The Constitution Act of 1982 opened up fuller possibilities for historical redress and inclusion. Although Canadian courts were not traditionally protective of Aboriginal rights, this has changed over the past two generations as First Nations' constitutional entitlements have been extended. A Royal Commission on Aboriginal Peoples, given a wide remit and the opportunity to issue comprehensive recommendations, met between 1991 and 1996, issuing a five-volume (3,536-page) report.

Constitutional reform has been a less propitious option for securing the rights of Aboriginal peoples of the United States. Instead, the main recourse has been the U.S. courts, although these "have been defensive and reactionary on the question of rights," and have also been "unpredictable, deciding on a case-by-case basis and failing to develop a coherent body of aboriginal law." The United States does not evince the multicultural philosophy articulated in the 1996 Royal Commission on Aboriginal Peoples by political theorist James Tully (1999). In particular, Tully's view of the relationship between Aboriginal self-government and liberal democracy expresses a multicultural perspective on democratization that currently has greater resonance in Canada than in the United States. For Tully, a key aspect of "democratic participation and citizen dignity" is not found in a specific form of political institutions. Instead, "the practice of government should rest on the sovereignty of the people, enabling them to exercise their power of self-rule in culturally appropriate ways and to amend or overthrow the government if it thwarts their powers." Such a perspective means that "the forms of democratic participation and citizen dignity appropriate to Aboriginal and non-Aboriginal peoples are similar but not identical." In Tully's view, Aboriginal peoples "tend to place greater emphasis on direct participation and government by consensus." Consequently, "a person can engage in citizenship and personal freedom only if she or he has a threshold of self-respect—

a sense of one's own value and the secure conviction that what one has to say and do in politics and life are worthwhile." For Tully, an individual's place, beliefs, and aspirations "are partly constituted by cultural identity, the condition of self-respect is a society in which the culture or cultures are recognised and affirmed by others, both by those who do and by those who do not share a particular culture or belief system." This perspective has radical implications: "a society whose members view the disappearance of the cultures of other members with indifference or moral approval, or who treat them with indignity, derision and contempt, destroys the self-respect of those members and, in so doing, undermines their abilities to be citizens and autonomous individuals" (Tully 1999: 437–39). The agenda for government policy is plain in this approach.

The United States and Canada have also taken different judicial stances toward First Nation peoples. The Canadian judiciary was unhelpful until late in the twentieth century, and for most of that century Aboriginal peoples were denied standing as plaintiffs intending to sue the federal government. In contrast, the implication of self-government, if not the practice, has been present in U.S. Supreme Court rulings since the 1830s. However, the Canadian courts concurred in the establishment of Aboriginal peoples' rights as constitutional ones in 1982. In the United States, the Court has upheld a significant number of tribal claims about federal government violation of long-standing treaties, resulting in substantial compensation for some American Indian communities and an unexpected source of enrichment.

Constitutional Order and the Undocumented

Undocumented workers, illegal workers, or illegal aliens, to use the variety of terms common in the United States, have been a presence in the United States from the time of its first restrictive immigration legislation, enacted in 1882 to exclude Chinese workers, but became an increasingly salient issue after enactment of the quota system in 1924. In historian Mae Ngai's thoughtful term, these undocumented residents have become "impossible subjects," because, as she writes, "immigration restriction produced the illegal alien as *a new legal and political subject*, whose inclusion within the nation was simultaneously a social reality and a legal impossibility—a subject barred from citizenship and without rights." In addition, "the need of state authorities to identify and distinguish between citizens, lawfully resident immigrants, and illegal aliens posed enforcement, political, and constitutional problems for the modern state. The illegal

alien is thus an 'impossible subject' a person who cannot be and a problem that cannot be solved" (Ngai 2004: 4–5, emphasis in original).

This problem has intense political salience, despite extensive legislative initiatives in the last several decades. In November 2005, President George W. Bush battled with the competing pressures posed for the Republican Party leadership in Congress by demands over the "impossible subjects" (and Congress has since intensified its pressure on illegal immigrants). The post-2006 Democratic Congress failed to agree on legislation. On the one hand, President Bush endorsed the extension of a physical barrier in Arizona and Texas to exclude undocumented workers, allocation of funds for an additional 1000 Border Patrol agents, bringing the force's total to 12,500, and deployment of advanced technology such as "drone" surveillance planes. On the other hand, the president returned to the question of integrating illegal aliens or "impossible subjects" already present in the United States through a proposed guest worker scheme. This would permit fixed periods of work, after which migrants must return to their home country; they would then face limits on when they could return to the United States under the scheme.

"Impossible subjects" challenge the United States' constitutional order. Immigration, even illegal immigration, is central to the publicly rehearsed narrative of American political development (celebrated equally by reformer Democrat Lyndon Johnson and conservative Republican George W. Bush), and is the road through which almost all Americans or their ancestors became U.S. citizens. For many, of course, this inclusion was imposed involuntarily, but the political cultural emphasis is positive and formative, as in President Bush's declamation in 2004 that "every generation of immigrants has reaffirmed the wisdom of remaining open to the talents and dreams of the world. And every generation of immigrants has reaffirmed our ability to assimilate newcomers—which is one of the defining strengths of our country."[6]

Yet the impossible subjects are a thorn in the side of the constitutional order—they are both welcomed as necessary economic functionaries and given quite generous rights, despite an undocumented status, and periodically unwelcomed as threats to the assimilationist dream and the legal rights that other citizens have earned through naturalization, and so forth. Again, in the same speech in 2004, President Bush expressed the duality: "we see millions of hard-working men and women condemned to fear and insecurity in a massive, undocumented economy. Illegal entry across our borders makes more difficult the urgent task of securing the homeland. The system is not working. Our nation

needs an immigration system that serves the American economy, and reflects the American Dream." This Bush administration initiative confirms Ngai's (2004) argument that the condition of undocumented workers as impossible subjects is inherently unstable and illustrative of legal ambiguity, because it changes so much over time (for a more general account of the role of the foreigner in defining U.S. political cultures, see Honig 2001). There is no permanent legal status, just attempts episodically to grapple with the problems posed by the undocumented to the constitutional order, attempts driven by a mixture of contingent factors (such as security or recession) and long-standing factors (such as a willingness by many Americans to pardon illegal immigrants and permit their naturalization). Thus, as Ngai (2004: 6) writes, "illegal alienage is not a natural or fixed condition but the product of positive law; it is contingent and at times it is unstable. The line between legal and illegal status can be crossed in both directions"; consequently, "the boundary between legal and illegal status might well tell us a lot about how the nation has imagined and constructed itself over time." All this is given even greater significance because of the ways, both historical and continuing, in which immigration laws (detailing quotas by nationality and race) interact with existing ethno-racial communities in the United States—an issue facing, in particular, Latino Americans (see Huntington 2004b).

One point worth underlining in considering the undocumented is how well, if at all, a democratization framework can analyze the circumstances of people not deemed to be citizens. Clearly, democratization frameworks are fundamentally concerned with the extension of democratic rights to citizens—for instance, Native Americans or African Americans—but thinking about undocumented residents raises different questions about the boundaries of membership in the political community. The United States has a large population, both historically and at present, of undocumented residents who may become citizens, and the democratization framework needs to be refined to take account of this. As evidenced by current turbulence over the possibility of substantially revising the framework of U.S. immigration policies, the scope and boundaries of the U.S. polity are neither stable nor the object of a clear consensus. Up to 5 percent or so of the U.S. labor force is being energized to defend itself from what is perceived as the risk of criminalization or even deportation, while on the other side of the divide, a similarly significant block of citizens and voters feels threatened by the apparent loss of state control over the unauthorized influx of aliens and is energized to press for more restrictive policies. This is a powerful political issue that seems unlikely to die down any time soon, and indeed has the po-

tential to recast the balance of forces within the U.S. polity for generations to come. So the incorporation, or alienation, of the new immigrant diasporas—mainly, but not exclusively, retaining ties to their various Latin American and Caribbean homelands and communities—requires the closest of attention by students of contemporary American political development. But as should be clear from the way the issue is characterized above, this is far from being a problem solely for Washington policymakers. In Paris, Madrid, Ottawa, Brussels, and London, and indeed even in Mexico City and Buenos Aires, democratic governments are currently wrestling with comparable policy dilemmas, and the implications for their political equilibria are equally significant. Moreover, the experiences of each democracy interact with those of its neighbors. For example, the policies adopted by the United States need to take into account the likely political repercussions in, say, Mexico's diaspora politics, which are inherently transnational and therefore demand a comparative view. Here is one of the most productive areas for future collaboration between American political development and comparative democratization scholars, brought together by a joint recognition that in this realm, democratization has to be viewed as an open-ended and long-term process of social construction, not a one-time question confined to certain problems of static institutional design.

Constitutional Order and Institutional Reformulation: Federalism and Redistricting

All political systems have distinct institutional features that feed directly into how democratization occurs and is understood. In the U.S. case, a key institutional feature is its federalism, modified fundamentally by the recent establishment of electoral redistricting to create majority minority legislative districts. This modification, within the context of federalism, gives direct expression to and impinges upon the U.S. conception of democratic procedures. It helps realize the nation's constitutional order and shows its development over time.

Federalism is embedded in the Constitution and invoked throughout the nation's history. Two key aspects can be identified here. First, states' rights are a powerful doctrine that has given federalism a weaker political center than is found in comparable advanced democracies with federal arrangements (Whittington 2005). States' rights, as a struggle about slavery, provoked the Civil War; and although the victory of the North signaled acceptance of a Union and of national authority, the extent of federal powers was contested from 1865 and con-

tinues to be challenged to this day (see, e.g., the Supreme Court's rejection of the use of the Commerce Clause in *U.S. v. Morrison* [2000]).[7] The states have been sufficiently coherent and powerful as subnational governing institutions—with distinct cultures, and their own constitutions and laws and loyalties—to form political agents that cannot be ignored. The states possess what one political scientist characterized as sufficient "infrastructural capacity"—that is, the ability to deliver many public goods, including laws, to their members—to make U.S. federalism an institution with powerful subnational units (Ziblatt 2004). The political and institutional result is the present-day system in which national law is supreme but gubernatorial, state legislative, and municipal bodies are highly significant actors for U.S. citizens. Relations between the federal center and the states have consequently been fundamental to American political development (Orren and Skowronek 2004; Weir 2005).

But, second, the very strength of federalism in the United States presents a major obstacle to democratization, because historically powerful states' rights came at the price of profound inequality across states in terms of rights of citizenship, especially for African Americans. Several chapters in this volume attest to this problem. Overcoming this federal bias has been elemental to democracy-building. In this setting, electoral redistricting is a dramatic instance of institutional design intended to advance democratic rights.

The narrative of redistricting is familiar. Before passage of the Voting Rights Act in 1965, state legislatures determined districting within their states, revising districts in the light of demographic changes revealed by the decennial U.S. Census, and the U.S. Supreme Court took only a minimal interest in districting. (The two important exceptions are *Baker v. Carr* [1962], ruling that population should be equal across a state's legislative districts, and *Wesberry v. Sanders* [1964], holding that population in congressional districts in a state should be equivalent.)[8] There was a good deal of stability (and, of course, southern states had disfranchised most African American citizens). The 1965 act suspended voting tests and made the Justice Department responsible for accepting new voting rules enacted in the sixteen designated states. The "trigger mechanism" provided criteria, under Section 4, to identify those states that had traditionally discriminated against black voters, measured by any test that had to be passed before a person was permitted to vote and registration rates below 50 percent of the state's eligible voters. This exceptional power granted to the federal government was exercised immediately in Alabama, Louisiana, and Mississippi; the U.S. attorney general sent federal officials to these states to register voters and

monitor practices on voting day (Rodgers and Bullock 1972). Section 5 of the act gives the Justice Department the power to approve or reject—through "preclearance"—states' proposed election law changes. The affected states increasingly sought preclearance for their districting plans.

The preclearance system was a dramatic instance of federal intervention in state arrangements, initially stipulated, in 1965, for five years only, renewed subsequently by Congress, and made permanent in 1982 under pressure from civil rights groups and against conservative opposition (initially quite strong from the Reagan White House, but then largely abandoned). Since 1970, all states specified in Section 5 have had to win federal approval before putting their new districting plans in place.

To the Supreme Court, geographically peculiar districting proposals were necessary to achieve majority bases for African American elections (*Shaw v. Reno* 1993; see also Valelly 2004), though since the 1990s the Court has been less forceful in upholding Sections 2 and 5 of the Voting Rights Act. Congressional amendments in 1982 set aside the Court's 1980 ruling that Section 2 applied to the status quo (*City of Mobile v. Bolden* 1980), as well as extending the preclearance requirements by twenty-five years (Bullock and Butler 1985). By 2005, thirty-seven African Americans served in the House of Representatives (Lublin 1997; Canon 1999; Valelly 2004).[9]

Redistricting has produced its own paradoxes, however (King and Smith 2008). First, in majority minority districts, the incentive for candidates, once they have won the Democrat primary, to galvanize voter turnout or voters' engagement with issues is low. In the view of some observers, this has engendered a long-term neglect of issues such as poverty and inequality, central to poor African Americans' interests. Political scientist J. Phillip Thompson (2005: 56) writes that "the combination of political co-optation of black elected officials, the government's lack of response to substantive black demands, and the increasing incidence of majority-black voting districts and winner-take-all elections creates a certain political logic." This logic encourages addressing the more engaged black middle class mobilized through homeowners' associations, rather than poor constituents.

Redistricting structures a majority core of Democratic support into single-race districts. Many political scientists treat the "Republicanization" of the South as an outcome of competitive party politics arriving in and "normalizing" the region; David Lublin (2004: xvi) goes further, concluding, in a way consistent with the arguments in this volume, that "one must consequently view the

changes in the South not merely as one of partisan change but one of democratization." But this democratization is increasingly skewed in the sense that party support in the South is racially divided, as conservative white Democrats, both as voters and as officeholders (such as Zell Miller), switch to the Republicans—whose numbers have been strengthened by many northern whites migrating to the region—and many of whose officeholders are not originally southern (such as Newt Gingrich). This deepening racial partisan division is part of the unfolding narrative of American political development and democratization. That the Department of Justice has been an unwitting agent of this development is an aspect of the narrative that illustrates the place of federalism in the U.S. constitutional order.

The political controversy over redistricting shows how democratization is both a cause and a consequence of key aspects of American political development. This point is examined particularly by Suzanne Mettler in chapter 10, in which she shows how policies may foster positive feedback effects for democratization.

U.S. Democracy: Distinctive but Not Incomparable

From American political development and comparative perspectives, the aim of this book is to open up relatively unconnected and insulated fields of reflection and inquiry, rather than to achieve any final closure or conclusions on issues in contention. These two currents of work (brought into intellectual contact in this volume) view both democratization and political development as open-ended arenas of reflection and debate. Our aim, therefore, is to advance self-understanding rather than to confirm hypotheses. Comparative analysis always requires careful justification. If scholars shift away from the idea of a single universal model of best-practice democracy that all societies should strive for (or have imposed on them) and accept that the institutional form of democracy is likely to take plural shapes, then comparison can be distinguished from prescription. This approach precludes adopting either a celebratory or a condemnatory tone.

U.S. democracy does indeed display many remarkable and unusual features. In some major respects, the distinctive course of U.S. history may have produced truly unique characteristics that cannot be replicated elsewhere. Our take on these exceptional traits is tentative, and it is not the purpose of this book to make the case of "uniqueness." However, there are a series of distinctive "American"

ideas about the nature of freedom—ideas that are, in principle, prone to being universalized but, in practice, derive much of their precise content and driving force from a specifically "American" experience of slavery, arms bearing, litigation, the preeminence of markets, and the rejection of inherited privilege, among other factors. Eric Foner (1999) traced these ideas across the history of the republic and disaggregated them into multi-stranded components. In his view, there is a radical insistence on certain aspects of "negative" liberty that involves absolute freedom from government control or inspection, both in such areas as gun ownership and in terms of laissez-faire economics. But this is combined with some unusually rigid commitments to "positive" liberty, in accordance with certain moral laws that are seen (in the United States, at least) to be laid down by God. These two apparently conflicting traditions of thought about individual freedom may clash, but they also find common ground—notably, in the breadth of support for preaching "American" freedom to the rest of the world.

Another related feature is what can provisionally be labeled "patriotic legalism." The legalism and litigiousness of U.S. democracy are not in doubt (as illustrated, for example, by the political rights of Puerto Rican citizens recounted in chapter 3). The "patriotic" aspect of this is less emphasized, but deserves mention when we consider the place of U.S. constitutionalism in the contemporary world. When the courts acquired their fundamental powers at the end of the eighteenth century, the United States was in the process of turning away from an Old World that was considered corrupt and (relatively) lawless. The highest body in the land was the Supreme Court, guardian of the Constitution, and servant of no empire or dynasty. It could not be constrained by foreign judges or by international law (an almost nonexistent entity at the time). It could, and did, accept various kinds of self-limitations—that was what its jurisprudence was fundamentally about—but the Court recognized no external limitations except those that the Founders and Congress had freely enacted, and Congress was therefore free to repudiate. These patriotic features of the U.S. legal order included upholding a battery of rights for citizens, while defining very clearly the limits beyond which such protections would be unavailable (to British loyalists, slaves, boat people, and currently, foreign alleged "terrorists"). As U.S. power grew, its legal system became increasingly assertive in proclaiming the extraterritorial remit of its judgment, a unilateral principle that cannot be generalized to other democracies. The U.S. legal tradition is unable to recognize a higher legal court, superior to that of the Supreme Court, for then that court would be superior to the sacralized Constitution. This patriotic legalism

reveals its parochialism when faced by issues such as the authority of the United Nations, or the International Criminal Court, or even the Geneva Conventions. Other democracies (perhaps especially those most conscious of their fragility) seek legal reinforcement of their domestic freedoms through the subordination of domestic law to international courts. The patriotic legalism of U.S. democracy is an outlier in this respect, one large enough to destabilize the whole enterprise of building an authoritative international democratic legal order.

There is a significant current of democratic opinion that views the power of judges and the legal profession as not so much a guarantor but a potential threat to contemporary democratic values. It is possible to extend this argument to the United States, but that would run counter to deeply entrenched beliefs that identify democracy and rights with legal process. The key to this is to be found in the jury trial and the role of local courts, rather than in the Supreme Court. What brings the U.S. idea of freedom into harmony with its practice of law is the widely held belief (or unspoken assumption) that democracy includes the public display of collective ideas about justice in the courtroom. This also connects with distinctively U.S. attitudes toward the death penalty, the denial of voting rights to those with criminal records, and the merits of mass incarceration. Other mature democracies tend to view the justice system as an instrument of rehabilitation and, ideally, a school for citizenship. The punitive Old Testament approach to justice is more in evidence as an expression of the "American" democratic tradition.

Comparativists are struck by the fact that some U.S. liberals have referred to the diffusion of equity ownership as a further symptom of the democratic and inclusive nature of the U.S. market economy. In the European social democratic tradition, inclusion is visualized in terms of the extension and generalization of workplace rights, or the "democratization" of the firm, whereas U.S. democrats seem to think more in terms of the extension of private, individual ownership rights in the market than in terms of collective, institutional, and social entitlements. In short, we suspect that just as U.S. attitudes toward freedom, the law, and the penal system are distinctive, so is U.S. citizens' view of the relationship between democracy and the market peculiar to the U.S. tradition.

In chapter 3, Whitehead draws attention to the unusual strength of the U.S. Constitution, its ability to reproduce the same structures in new units as the federation incorporates additional jurisdictions. The Civil War made clear that the Union was "one and indivisible" for all time. In contrast to other federations that accept the democratic principle of voluntary withdrawal, the United States

can only grow, never splinter. Yet there is less reliance in the United States on the integrating presence of a state bureaucracy, or top-down political machines, than in other democracies. The diverse interests at play within the United States tend to be coordinated through the market and legal process rather than through bureaucratic diktat or integrative party structures. This may also help explain how U.S. attitudes to social exclusion (and thus to democratization) differ from those of other democracies. It is weakness in the marketplace or the lack of legal representation that have the most exclusionary effect in the United States, and these are vulnerabilities that can be internalized as personal failings. Elsewhere, social exclusion may be viewed in more political terms, as a failure of government programs or the absence of party activism. The idea of democratization as an ongoing process of social contestation over the scope and terms of inclusion in a potentially universal democratic citizenship carries one set of connotations when the state is seen as the key agency of integration, and a quite different set when the focus is the market.

As a result of this configuration of distinctive features, when U.S. citizens consider the place of their country in the world, there is an understandable tendency to view other countries (including other long-standing and mature democracies) as missing out on various features of political life that are, for much U.S. domestic opinion, constitutive of a fully democratic order. In other democracies, the courts are more inaccessible, liberal elites flout popular sentiment that favors harsher punishments, these elites promote international bureaucracy beyond the reach of legislative supervision, investors fail to assert their ownership rights, and so forth. Viewed from this perspective, it is not necessary to believe that the United States has the best possible democratic institutions to conclude that its democracy is more substantial and further advanced than those found elsewhere in the world. From there, it is a small step to the conclusion that the whole of the rest of the world would benefit from remaking institutions and practices in accordance with the U.S. model. So here we arrive at the notion of "immanence." Because U.S. democracy rests on such a widely shared set of collective beliefs about the merits of the national tradition, it is all too easy for U.S. opinion to draw the conclusion that its own exceptional political configuration is more "natural," and more prone to being "universalized," than many democrats elsewhere in the world might think.

If the central focus of a democratic regime is the convening of periodic free and fair elections that give rise to the alternation of parties in national office, then an approximately evenly balanced, two-party system would seem the opti-

mum democratic political configuration. The United States, and a very small number of other (mainly "Anglo-Saxon") democracies with majoritarian voting systems, have experienced over a century of regular electoral alternation between only two nationally extended political parties. Each party leadership, when not in power, constitutes an experienced "government-in-waiting" with a plausible expectation of capturing the government during the career span of the top party officers. In the United States and a few other countries, this party framework has become so entrenched that it is seen by most citizens and political operators as almost the "natural" state of affairs. For those schooled in this particular set of arrangements, it has even become the habit to assume that such a pattern is (or should be) the democratic norm throughout the world. As democratization advances into new jurisdictions, this model of regular two-party alternation might be expected to become more prevalent. And as U.S.-style democracy is universalized, the normalcy (and sovereignty) of this model will be reaffirmed within the United States, as well as elsewhere.

But a broader comparative and historical perspective would raise serious doubts about the naturalness, let alone what Whitehead (in chapter 2) calls the "immanence," of this version of democracy. First of all, the United States, the United Kingdom, Australia, and New Zealand are far from being representative of the community of well-established democracies as a whole. Rather, they are a subset within a larger universe that includes many multiparty democracies, some one-party-dominant democracies, some in which the constellation of available parties changes radically over time, and some in which major and durable parties may attract strong electoral followings without ever enjoying a serious prospect of achieving national leadership. Thus the "competitive struggle for public office" approach to democracy and to the structure of the party system is a distorting simplification of electoral democracy in the world as a whole. It may be even more misleading if this model is unthinkingly extended to new democracies, where the stakes of party alternation in office may be much larger, and where losers may reasonably lack grounds for confidence that they will get an equally good opportunity to compete for office at the following election. In any case, even if we limit ourselves to very long-established and trustworthy electoral processes, the social foundations and issue cleavages that shape the configuration of party competition cannot be taken as either uniform across countries or necessarily stable over time. In some European democracies there may be very deeply rooted religious, linguistic, or regional cleavages. In others, a two-party system could have arisen at a time when political competition was struc-

tured around the redistributive agenda of the welfare state, and could therefore have suffered de-alignment as trade unions and public welfare programs lost their salience. In a globalized world economy, the capacity of alternative party leaders to reallocate the political economy of each national society may be radically constrained. Thus, hitherto immutable two-party systems (such as the United Kingdom's Conservative-Labour cleavage of the second half of the twentieth century) may not prove so immutable after all. In any case, the apparently homogeneous category of "Anglo-Saxon" stable, two-party electoral systems turns out, on closer consideration, to contain big variations. Most are parliamentary systems; the presidential United States is an outlier. The United Kingdom and New Zealand are centralized; others, including the United States, are federal. In some, the party organizations are deeply rooted and somewhat independent of their elected representatives (e.g., answerable in part to a membership base). In the United States, the party structures are much looser, and essentially come together only as electoral machines.

In summary, although this volume has not dealt with the U.S. party system from a comparative perspective, our approach draws attention to a variety of topics concerning the conceptualization of democratic party politics that merit fresh consideration, both from the American political development community and from democratization scholars who take the U.S. case into account.

So, on the one hand, U.S. democracy is not incomparable, but on the other, it is plausible to describe it as immanent. What, then, is the relationship between these two theoretical constructs? If U.S. democracy were truly incomparable, then it would have to be excluded from comparative democratization studies (as indeed it has been, at least tacitly, in many cases). But it is argued here that notwithstanding some major manifestations of exceptionalism, the U.S. experience is only unusual, not strictly incomparable. Indeed, the study of democracy and democratization in the United States might be enriched by the adoption of a comparative perspective, especially one that tries to situate this case in the most relevant subset: that of "immanent" democracies. If U.S. democracy were truly pristine, there would be no call for American political development scholars to investigate the independent republic's trajectory as a process of democratic emergence, development, or potential regression that can be compared and contrasted with other democratizations. It would have existed fully formed from the beginning and democratization would not be a topic for study. However, the various American political development scholars contributing to this volume seem unwilling to concede the United States that exemption. That said,

we still need to recognize and explain the powerful hold exerted by the myth of the inherent "democratic-ness" of the United States—how the myth was created, why it meets with such acceptance, and how far it distorts the historical record. Both American political development and comparative democratization perspectives may have something to contribute, relativizing and contextualizing this appearance of immanence.

Why is this belief so strong in the United States, perhaps stronger than in other countries that are also self-assured about their inherent status as democracies? We might find a partial answer by examining the construction of constitutionalism as a civil religion designed to unify and coordinate a huge, diverse, and potentially conflictive market society. At another level, we might examine the association between democracy and popular religiosity in U.S. culture (a theme much stressed by writers who link democracy to the individualism promoted by Protestant communion between the bible reader and his Maker). Another explanatory strand could be found in the interplay between democracy and nationalism, and in the history of U.S. expansionism. Geography may also play its part, given that the barriers of distance may have reduced the inclination of American nations to compare their experience with the political history of other countries, and so may have fed their conception of an inherent difference. Similar considerations may help explain the difficulty of viewing U.S. political history as just one more variant within the broad unfolding of a universal human history. Two great oceans and a vast expanse of unoccupied land probably helped to cement this separate consciousness, also fed by two hundred and twenty years of introspective republicanism. All these considerations may help account for the strength of the democratic myth in North America, and thus for the apparent immanence of U.S. democracy.

From a comparative perspective, many of the features singled out to explain U.S. "immanence" may have counterparts in other democracies within this cluster. Switzerland's mountains, Britain's coastline, the geographic isolation of Australia and Iceland, all serve to produce an impact on the national consciousness that can be compared to that in the United States. In all these cases, there was not just geographic separation but also an unbroken tradition of internally generated political development that parallels the U.S. experience. This pattern suggests that while the United States may be the most striking exemplar of a confident and expansionist immanent democracy, it is far from unique. It suggests, rather, that the United States is at the heart of a cluster. If so, then comparative democratization has something to contribute to the study of American political development.

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Notes

CHAPTER ONE: American Political Development as a Process of Democratization

1. See James Madison's "Federalist No. 51," *Independent Journal*, February 6, 1788.

2. "Speech at Peoria, Illinois, 16 October 1854," in *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler (New Brunswick, NJ: Rutgers University Press, 1953), 2: 266.

3. The term "American political development" is an exclusionary one—"American" covers much more than the unit of the United States of America. However, we follow the literature's convention and employ this shorthand because it has become the dominant description among scholars working on the historical origins and evolution of the political institutions of the United States.

4. See "The National Security Strategy of the United States of America" (Washington, DC: U.S. Department of State, September 2002).

5. George W. Bush, "Remarks on the 20th Anniversary of the National Endowment for Democracy, November 6, 2003," *Weekly Compilation of Presidential Documents* 39, no. 45 (Washington, DC: Government Printing Office, 2003), 1542–57.

6. *Northwest Austin Municipal Utility District Number One v. Mukasey*, 557 F. Supp. 2d 9 (D.C. Cir. 2008); *Crawford v. Marion County Election Board*, 128 S. Ct. 1610 (2008); *Riley v. Kennedy*, transcript of oral argument, March 24, 2008 (www.supremecourtus.gov/oral_arguments/argument_transcripts/07-77.pdf).

7. House of Lords, Session 2004–05, UKHL 56, an appeal from [2002] EWCA Civ 1502, Opinions of the Lords of Appeal for Judgment in the Cause, "A (FC) and others (FC) (Appellants) v. Secretary of State for the Home Department (Respondent), X (FC) and another (FC) (Appellants) v. Secretary of State for the Home Department (Respondent)," December 16, 2004, 1–101.

8. This claim should not be taken to mean that we presume that democratization has a teleological character. See Whitehead 2002; Orren and Skowronek 2004: 174–84.

9. This turn in American political development is embedded in a larger conversation in the social sciences about historical patterns and temporal processes. See Bates et al. 1998; Elster 2000; Büthe 2002; Mahoney and Rueschemeyer 2003; Pierson 2004.

10. For exceptions, see Keyssar 2000; G. Edwards 2004; Valelly 2004.

11. This is not the first time, we modestly suggest, that the study of democracy in the United States has purported to illuminate trends and challenges elsewhere.

12. *Plessy v. Ferguson*, 163 U.S. 537 (1896).

13. *Civil Rights Cases*, 109 U.S. 3 (1883).

14. For a valuable treatment of temporal issues, see Pierson 2003.

CHAPTER TWO: Two Comparative Democratization Perspectives

1. James Madison, "Federalist No. 14," *Independent Journal*, November 30, 1787.

2. Tony Smith (1994) provides a representative illustration of an abundant literature of this kind.

CHAPTER THREE: Two-Tier Citizenship

1. Note that the subtitle of the 2002 edition of Linklater's book was the more immanent *How an Untamed Wilderness Shaped the United States and Fulfilled the Promise of Democracy*.

2. The boundaries of Texas were not rectangular and the state was not limited in size as Jefferson had envisaged. Under Spain, the border with Mexico would have been the Nueces River, but Texan ambition extended it to the Rio Grande. The inclusion of Texas obviously shifted the internal balance within the Union, strengthening the slave-owning South and tilting the United States toward military conflict with Mexico.

3. This anomaly arises because, under the Constitution, it is not the voters but the representatives of the states who elect the president and vice-president. The only way individual Puerto Rican citizens on the island can participate in a U.S. presidential election is through an absentee ballot (if they are registered in, say, New York State). Until adoption of the Twenty-Third Amendment in 1961, U.S. citizens residing in the District of Columbia also could not participate in presidential elections.

4. In fact, Governor Rosselló had already spent about $1 million to print more than three million presidential ballots, but it would have cost the island authorities a further $2 million to distribute and count these ballots.

5. No doubt, there is a mythology about the Bill of Rights, and on close inspection it is possible to uncover both opportunism and continuity. On the First Amendment, for example, Leonard Levy writes: "What did the amendment mean at the time of its adoption? More complex than it appears, it meant several things, and it did not necessarily mean what it said, or say what it was intended to mean." In this case he dates the radical innovation not to 1791 but to the battle over the Sedition Act of 1798, which generated "an absolutist interpretation of the First Amendment . . . based on the now familiar, but then novel and democratic theory that free government depends for its existence and security on freedom of political discourse" (Levy 1986: 164–65, 169).

6. Thomas Jefferson, *Notes on the State of Virginia*, Query XVI (1781–84).

7. The Founders may have regarded the writ of habeas corpus as part of the American birthright. Certainly, it was the only common-law process mentioned in the Constitution (Article I, Section 9). But when the antislavery movement tried to invoke it to protect runaway slaves (given that it was meant to help people wrongfully detained), Southern courts replied that a jury trial was necessary under the law before a slave owner could be deprived of his slave. In the words of a Florida court ruling of 1859, "The doctrine of the *Court is* that the person claiming him [a slave] cannot be deprived of his *property* without jury trial" (Neely 1992: xiv).

8. *Dooley v. U.S.*, 183 U.S. 151 (1901).

9. To give some flavor of the debate, here is a pro-assimilation alternative to the Maldonado-Denis position on the language issue: "All the virtues and likewise all the evils of democracy in government, as found in the United States, have developed their

counterparts in Puerto Rico. There is no doubt that English has become in our present civilization the main channel for the flow of democratic ideas. If the current of political thought that began to move from the United States to Puerto Rico at the beginning of the century is to be kept clear and abundant, the Puerto Ricans need in some measure a knowledge of English so that they may have direct and original access to the sources" (Cebollero 1945: 76).

10. Roosevelt wrote: "It is an indispensable part of American policy that the coming generation of American citizens in Puerto Rico grows up with a complete facility in the English tongue" (quoted in King 2005a: 33).

11. With just under four million inhabitants, Puerto Rico's population houses only about 1.3% of all U.S. citizens. The other unincorporated territories are far smaller (150,000 population in Guam, 120,000 in the U.S. Virgin Islands).

CHAPTER FOUR: Same Dream, Different Fates

1. In this chapter, I use the terms "Latino" and "Hispanic" interchangeably to denote the same category of individuals: people of Latin American origin or descent who are resident in the United States.

2. www.migrationinformation.org/GlobalData/countrydata/country.cfm.

3. www.nyc.gov/html/vac/html/information.html.

4. This category includes individuals who receive an I-551 Card (Green Card) on entering the United States, to some Native Americans born in Canada and Mexico, and to Special Agricultural Workers.

5. The final bill still barred illegal immigrants from receiving Social Security benefits; ordered the General Accounting Office to study the use of student aid by illegal immigrants and to report on the unlawful use of means-tested benefits, such as food stamps and cash welfare, by illegal immigrants; and required the secretary of Housing and Urban Development to deny subsidized housing benefits to families in which all members were illegal immigrants. See Congressional Quarterly 1997a: 15–16.

6. *American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991).

CHAPTER FIVE: Gender and Democracy in the American Constitutional Order

1. On the creation of legal persons, consider, for instance, Article I, Section 2 (which includes the Three-Fifths Clause), which offers the following categorization in relation to the formula for representation: "free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons."

2. All cases cited are listed at the end of the chapter.

3. "Is Woman Suffrage Failing?" *The Woman Citizen*, March 22, 1924, 8, 9, 29; April 5, 1924, 8, 30; April 19, 1924, 15.

4. See also, for instance, the comment of Gloria Swanson: "But in spite of all that, in spite of the fact that I don't use it, suffrage means more to me than I can possibly put into words. It is a symbol of the freedom of women" (*The Woman Citizen*, March 22, 1924, 8).

5. There were several educational equality cases during the 1970s that were contested on Equal Protection Clause grounds. These cases show a similar pattern of resistance (in

two 1970 cases), followed by adherence to the equality principle (in two 1972 cases), followed by the reemergence of resistance (in a 1977 case). For details, see Mezey 2003: 41, table 2.1. The Title IX cases did not begin until the very end of the decade (Mezey 2003: 51, table 2.2).

6. *Intermediate scrutiny* means a standard of review that is between a rational basis standard and a suspect classification / strict scrutiny standard. Under the first standard, the starting presumption is that the classification upon which a law is based is constitutional, as long as it is rational. Under the strict scrutiny standard, the Court begins from the presumption that the classification (based typically on race or national origin) renders the law unconstitutional, and it is the government's burden to show that there is a compelling government interest that justifies the use of such a classification. Under intermediate scrutiny, the Court begins from a position of neutrality as to whether a law based on a sex classification violates the Equal Protection Clause.

7. This position is later referenced by Stevens in his concurring opinion in *Craig v. Boren* (1976: 212) as the wrong approach to thinking about sex classifications.

8. Neither slaves nor women could hold office, serve on juries, or bring suit in their own names, and married women traditionally were denied the legal capacity to hold or convey property or to serve as legal guardians of their own children" (*Frontiero v. Richardson* 1973: 685). This text draws closely from the Ginsburg brief.

CHAPTER SIX: The Reversal of Black Voting Rights after Reconstruction

1. Historians of the South have long debated whether it was the Bourbons (conservative, pro-business Democrats) or white populists who were responsible for the move to disfranchise. The most recent findings suggest that it varied from state to state. Black-belt elites were invariably involved. See Kousser 1974; Perman 2001. The key point for this essay is that white elites sought to manipulate social tensions to promote discrimination and that the struggle to reassert white supremacy in southern politics dated back to the end of Reconstruction.

2. *Civil Rights Cases*, 109 U.S. 3 (1883).

3. "Suffrage in Free States," *Liberator*, August 25, 1835, 34–35.

CHAPTER SEVEN: Deliberation, Incivility, and Race in Electoral Campaigns

I thank Larry Bartels, Adam Berinsky, J. Eric Oliver, and Gretchen Ritter for valuable comments, and Paul Gerber and Oleg Bespalov for able research assistance.

1. See also Karpowitz's (2006) discussion of race and deliberation. The *Hopwood* decision refers to *Hopwood v. Texas*, 518 U.S. 1033 (1996).

2. In this vein, Tamar Jacoby (1998: 536) argues that instead of engaging in "howls of outrage," black leaders should embrace the solutions of private charity and enterprise (533). She criticizes African American leaders such as Maynard Jackson, Atlanta's mayor during the 1996 Olympic Games, and Andrew Young, a prominent, moderate black leader in Georgia, who she says "harangue" white civic leaders for more race-conscious contracting or "crow" about the benefits of these programs (536–37). Although Jacoby is opposed to "awkward interracial dialogues" (543), she nevertheless believes that difficult racial problems, such as affirmative action, should be open to meaningful discus-

sion among the protagonists (538). In her view, we need more civil deliberation in the politics of race, and civility means that black leaders should not criticize white racism. An effective visual rendition of this argument can be seen on the cover of David Horowitz's pamphlet *The Death of the Civil Rights Movement* (2000). Horowitz argues that whereas Martin Luther King was a model leader because of his consensual style, his heirs, including Jesse Jackson, are too angry and their vision of color-consciousness is misguided.

3. Ansolabehere, Iyengar, and Simon (1999) argue that negative ads cause cynicism. While this conclusion is contested (Lau and Pomper 2004), there is good reason to think that even if *negative* ads do not *increase* political alienation, *positive* ads may *decrease* political alienation (Bartels 2000: 13). Finkel and Geer (1998) and Kahn and Kenney (1999) find that legitimate criticism of the opponent increases rather than decreases turnout.

4. When the left party mimics, it may also moderate its egalitarian stance on issues of race, either when it wins office or during the campaign.

5. The broad strokes I use here to describe Reconstruction should be qualified by the nuances; for a brief time, the inegalitarian norm was modified somewhat. See Mendelberg 2001, chap. 2.

6. The question was asked again in a different format and by a different survey organization in 1995, and elicited support from 96% of whites.

7. A similar story applies to other questions about the principle of integration, including whether African Americans "should have as good a chance as white people to get any kind of job" (last asked in 1972, when 97% of whites said yes); whether there "should be separate sections for Negroes in streetcars and buses" and whether "Negroes should have the right to use the same parks, restaurants, and hotels as white people" (for both, last asked in 1970, with 88% of whites saying no). These are reported in table 3.1A of Schuman et al. 1997: 104–5.

8. Figure 7.2 shows opinion on schooling only, but a similar pattern can be seen in implementation questions in other areas. See Schuman et al. 1997.

9. The sharp divergence between principle and implementation among both Northerners and Southerners was not always so. As figure 7.2 shows, from 1964 (the beginning of the time-series) to 1970, white Americans' opinions were divided by region. But in 1972, the clear division between North and South became, instead, a clear division between principle and implementation.

10. The following discussion draws on Mendelberg 2001, chaps. 5 and 6.

11. The very first story on the racial nature of the message appeared on October 18 in the *Washington Post*, but that story did not receive mention elsewhere. See Mendelberg 2001, chap. 5.

12. Jackson's challenge was broadcast first by *CBS News*, followed by the other networks and the print media.

13. Reporters later changed from skepticism to acceptance, and even initiated the accusation of racism in the Horton case, as criticism of George Bush's threatened veto of the 1991 Civil Rights Bill mounted. See Mendelberg 2001: 155.

14. Racial resentment in the 1988 National Election Study was measured by averaging the responses to the following questions (for details, see Kinder and Sanders 1996: 40; Mendelberg 2001, chap. 4). Responses are in five-point Likert format, ranging from "strongly agree" to "strongly disagree," with counterbalancing to prevent acquiescence bias.

> Most people—blacks and whites alike—agree that the average white person in America is more likely to have a good income, get a good education, and to have a regular job than the average black person is. Here are some reasons that have been given as to why the average black American is not as well off as the average white American.
>
> 1. Irish, Italian, Jewish, and many other minorities overcame prejudice and worked their way up. Blacks should do the same without any special favors.
> 2. Over the past few years, blacks have gotten less than they deserve.
> 3. It's really a matter of some people not trying hard enough; if blacks would only try harder they could be just as well off as whites.
> 4. Generations of slavery and discrimination have created conditions that make it difficult for blacks to work their way out of the lower class. (Kinder and Sanders 1996: 65)

15. By contrast, the impact of nonracial ideology (measured by asking respondents whether they identified as a liberal, conservative, or moderate) did not increase during the implicit period.

16. This was in response to a question asked toward the end of the session. In validation of the implicit-explicit distinction, only 22% classified the implicit message as "racial," whereas 52% classified the explicit message as "racial." See Mendelberg 2001, chap. 8.

17. "Seeking to avoid overt conflict," Kasson writes, "[advocates of civility] turned issues of class and social grievance back upon the individual. They redefined issues of social conflict to questions of personal governance, social propriety, and 'good taste'" (quoted in Sapiro 1999: 8).

18. Chambers makes a similar argument, and, unlike Mansbridge, many deliberative theorists seem to want reasonable discussion and distrust emotion. Chambers (1996: 148) cautions against the case in which "the strength of our feeling becomes the justification of our positions," as "strong feeling, as Hegel points out, equally justifies the morally motivated criminal and the morally motivated humanitarian." However, recent empirical studies of political emotion conclude that emotion can be adaptive in a liberal democracy. See Marcus, Neuman, and MacKuen 2000. The findings I review here about the black protest strategy suggest that emotion is not necessarily an anti-deliberative force. As Iris Young (1996) argues, emotional language tends to be used more often by subordinate groups, and rather than stigmatizing it as uncivil, we should think of ways to render it into an equalizing force. See also L. Sanders 1997.

19. For Gurin's brief on *Grutter v. Bollinger*, 539 U.S. 306 (2003), see www.umich.edu/~urel/admissions/legal/expert/gurintoc.html.

20. Gutmann and Thompson (1996) favor this motive, but many deliberativists have in mind a project of self-transformation.

CHAPTER EIGHT: Democratizing Authority

1. This long-running vein in the political development literature dates at least from the work of Lucien Pye and the Social Science Research Council in the 1960s, which viewed political development as development of administrative capacity—that is, the

means for establishing order and predictability—in conjunction with mass mobilization and democratic participation. See, for example, Pye 1965.

2. Southern police may not necessarily have been more efficient or more repressive than elsewhere; after the Civil War, according to Monkkonen (1981: 64), there were only minor sectional differences between northern and southern "race control efforts."

3. Much of the scholarship on black police officers has examined either the histories of particular cities' reform efforts or the attitudes of various races toward, and the efficacy of, forces comprised of policemen of various races. See Katznelson 1973; Fogelson 1977; Walker 1977, 1992; Cooper 1980.

4. Police methods, perhaps because they were amenable to quick reforms, were by a wide margin the most thoroughly investigated aspect of disorder in the Kerner Commission report. See National Advisory Commission on Civil Disorders 1968: 315.

5. In a similar vein, Alexander Keyssar (2000) analyzes the evolution of American suffrage rights and the causes of expansion and contraction of these rights. He argues that the primary cause of the contraction or delaying of the franchise was class tension; one primary cause of the expansion of suffrage rights has been war.

6. In declining order of certainty, international factors here seem to have: exerted significant pressures on the executive; helped convert neutrals into allies, as in the case of State Department officials; contributed to a split between elites in Congress and the executive; and contributed to a decline in violence against African Americans in the South. Resource mobilization and framing strategies also benefited from the new international context. Like Klinkner and Smith's *Unsteady March*, Layton's book acknowledges Myrdal only in passing, in this case in a footnote. See Layton 2000: 188, n. 53.

7. In a reference to the ambivalent effects of war on civil rights, an Alabama governor in the aftermath of the Civil War warned white voters that acknowledging certain rights of blacks would ensure that Reconstruction would remain a "harnessed revolution" (quoted in Cobb 1992: 61).

8. Reformers tried throughout the nineteenth century to reform urban police forces as part of the growth of urban service bureaucracies, seeking: readily identified membership through uniforms; recruitment of leadership from within the organization; explicit separation of internal functions; non-interchangeable roles; and internal business conducted by universalistic, nondiscretionary, meritocratic, and impersonal codes. There was a direct correlation between city size and its quicker turn to new methods such as "uniforming." See Monkkonen 1981: 55–58.

9. The trend toward examinations and minimum standards may have worked to slow the hiring of black officers, since most nonwhite applicants had less schooling than whites. Professionalization has been called "as formidable an obstacle to racial equality in the future as individual prejudice had been in the past" (Fogelson 1970: 47).

10. Reformers developed strategies within the police science community formed by new institutes and professional associations such as the International Association of Police Chiefs, the American Association for the Advancement of Criminology, and state police associations, among others. See Carte and Carte 1975; Fogelson 1977: 82, 90, 144; M. Sparrow, Moore, and Kennedy 1990: 34–41. Social change between the Civil War and World War I altered the developing relationship between social class and bureaucracy. "Wars, depressions, vast population movements, and an economic transformation all affected the behavior of . . . the 'dangerous class,'" and because of the close relation-

ship between this class formation and bureaucratic response, "the same broad social and economic forces also affected the urban bureaucracy created to control the 'dangerous class,' for the uniformed police grew increasingly strong and bureaucratized" (Monkkonen 1981: 65).

11. "Negroes Want More of the Offices," *Wilmington Journal*, April 24, 1920; "Negro Policemen for Baltimore," *Baltimore Twice-a-Week Herald*, March 26, 1920; "Chief May Appoint More Negro Policemen Soon," *Kansas City Call*, October 24, 1941; quotation from "Negroes Ask Again for Appointment of Negro Police," *Columbia Record*, September 2, 1948.

12. "Memphis Has Two Detectives on Force," *Chicago Defender*, March 22, 1919; "Louisville Wants Cops," *Baltimore Afro-American*, October 2, 1926; "Police Chiefs in Five Southern Cities Laud Negro Officers," *OK City Black Dispatch*, December 28, 1935.

13. "Negro Policemen: A Needed Step," *Atlanta Daily World*, November 26, 1947. The modern campaign for black police in Atlanta dated from 1922, when a group of ministers argued that taxation rates among the city's black residents, advantages in gathering information, and the positive record of such appointees elsewhere justified such hires. There was no progress in the 1930s, although the local organizations pressed the campaign further. See Dulaney 1996: 39–42.

14. See, for example, reports on Oklahoma City in 1919, and on Tulsa, Austin, and Galveston in the mid-1930s, in "Negro Policeman for Oklahoma City," *East Tennessee Press*, May 19, 1919; "Police Chiefs in Five Southern Cities Laud Negro Officers," *OK City Black Dispatch*, December 28, 1935.

15. "Tulsa's Negro Police Held Indispensable," *Memphis Commercial-Appeal*, September 1, 1948. The recognition of in-group cues is crucial in Fearon and Laitin 1996.

16. "More Negro Officers," *New York Age*, January 21, 1922; similar arguments were made in "Negro Detective for Kansas City," *Kansas City Plaindealer*, January 20, 1939; "Why Not Appoint Negro Policemen?" *Charlotte Observer*, December 17, 1940.

17. "Negroes Ask Again for Appointment of Negro Police," *Columbia Record*, September 2, 1948; "Negro Policemen," *Savannah Tribune*, July 24, 1924; "Ten Negroes to Be Appointed as Probationary Patrolmen," *St. Louis Post Dispatch*, July 12, 1921; "Police Chiefs in Five Southern Cities Laud Negro Officers," *OK City Black Dispatch*, December 28, 1935.

18. "Eastern Burg to Get Colored Policemen," *Pittsburgh Courier*, August 21, 1920; Rem Price, "Use of Negro Police Cuts Crime in Southern Communities," *Louisville Courier-Journal*, June 30, 1947.

19. "Southern Cities Using Negro Police with Much Success," *Charlotte News*, January 17, 1941; "Urge Negro Police in New Orleans," *Chicago Defender*, September 18, 1943; "The Southeast," *New York Times*, September 13, 1947. The lack of police personnel in Harlem apparently enabled more muggings by teenage gangs. See "More Police for Harlem," *New York Age*, August 29, 1942. World War II, in particular, resulted in the drawing down of local police departments nationwide. On World War II crime waves, the loss of police personnel to the war, and the federal government's response to this trend, see Kryder 2000: 149–50, 228–37.

20. Feminist and "social purity" campaigners, who believed that only women could address the problem of female immorality, had long lobbied for a separate female force in England, but it was the war and the concurrent fear of widespread degeneracy that led

to the assignment of such officers to the streets. See Price and Gavin 1994; " 'Walking the Streets in a Way No Decent Woman Should' " 1994.

21. "Negro Police Praised by Dubious Richmond," *Memphis Commercial Appeal*, September 2, 1948. Black policemen were sometimes assigned to similar tasks. In Richmond, one of the first black policeman administered the "negro" Fire and Police Boys Club, regulated shoeshine stands and newsstands, and supervised baseball teams.

22. "Need of Policewomen," *New York Age*, January 14, 1922; "Negress Named as Policewoman," *Pittsburgh Sun*, February 11, 1919; "Enforced Anti-spitting Campaign, Washington Letter," *New York Age*, January 18, 1919; "Enright Appoints Colored Policewoman," *New York Age*, January 31, 1919; "Prominent Iowa Woman Is Appointed Deputy Sheriff," *Chicago Defender*, November 15, 1924; "Miss Helen Waters Named Minneapolis Policewoman," *Kansas City Call*, March 22, 1935; "Negro Cop Is No Longer Novelty in Dixie," *Jackson News*, September 11, 1952

23. Advocates pointed to the rights implied by war-fighting well after the fact. In 1924, a black police officer in St. Louis called for inclusion of blacks in the previously all-white police union by noting that "in the great World's War black men were accepted as soldiers to fight, bleed, and die in a common cause, [and] they were accepted on the same insurance basis without petty prejudices" ("Sergeant Ira L. Cooper's Letter" 1987).

24. "More Police and Fire Protection Needed," *Kansas City Plaindealer*, January 17, 1942; "Campaign for Race Police in Portsmouth," *Chicago Defender*, August 29, 1942; "Little Rock Arranges for Negro Policemen," *Memphis Commercial Appeal*, August 20, 1942; "Patrol Newark's 3rd Ward," *Baltimore Afro-American*, August 22, 1941; quotation from "Negroes Cite 'Grievances,' " *Columbia Record*, March 27, 1941.

25. *Christian Recorder* report quoted in Dulaney 1996: 23; "Citizens Ask for Colored Cops," *Baltimore Afro-American*, March 26, 1920; E. E. Hart, "The Negro and the Finest," *New York Amsterdam News*, September 9, 1925.

26. "Nashville Committee Wants City to Use Negro Police," *New York People's Voice*, June 26, 1943; "More Policemen Urged in Embree-Allman Parley," *Chicago Defender*, August 28, 1943; "The People Speak," *Amsterdam Star-News*, September 4, 1943.

27. "Another Recommendation for Colored Police," *Atlanta Daily World*, September 28, 1945; "Something about the Appointment of Negro Policemen in Jackson," *Memphis World*, September 26, 1945 (reprinted from *Jackson MS Advocate*).

28. "Allen Strongly Urges Use of Negro Police," *Norfolk Journal and Guide*, November 18, 1945; "54 Towns in South Hire 279 Police," *St. Louis Argus*, November 26, 1948; "Southern Cities Using Negro Police with Much Success," *Charlotte News*, January 17, 1941; "Council Approves Employment of Negroes to Police Force," *Charlotte Observer*, June 10, 1941; "Dixie Police Chiefs Agree Negro Officers on Force Have Reduced Crime Rate," *Jackson Daily News*, November 2, 1951.

29. "Colored Man Passed for Cops Demands Place," *Jersey City Journal*, May 15, 1920; "Demand Negro Police after B'lyn Riots," *New York Amsterdam News*, February 1, 1935; "Crowd Demands Negro Officers," *Birmingham Age Herald*, March 6, 1946; "Negro Police Sought in City Hall March," *Atlanta Constitution*, March 5, 1946; "Louisiana Veterans Endorse Police for Negro Community," *Atlanta Daily World*, October 19, 1946; "Negroes Appointed to Charlotte Police Service," *Charleston News and Courier*, August 3, 1946.

30. "Foils Bandit in Attempt to Hold up Store," *Chicago Defender*, January 30, 1922;

"Colored Policeman Refuses to Resign," *New York Amsterdam News*, March 14, 1923; "Officers Green and Boyden Win Sergeantcy Promotions," *New York Amsterdam News*, May 26, 1923; "Name Negro Deputy," *Des Moines News*, November 18, 1920; "Mrs. Grace Murphy Made Policewoman in Detroit," *Chicago Defender*, May 1, 1921; "Colored Policewomen," *Ansonia CT Sentinel*, April 12, 1922; "3,000 Sign Petition Asking for Their Discharge," *Memphis Commercial Appeal*, January 14, 1922.

31. "Edw. Jackson, Member of Old 15th Gets Appointment," *Chicago Defender*, June 7, 1919; "Appoint Colored Police at Once," *New York News*, April 3, 1919.

32. "Atlanta's First Patrol of Negroes on Duty," *Atlanta Constitution*, April 4, 1948; "High Point Adds More Colored Police," *Norfolk Journal Guide*, September 11, 1948; "Negro Police to Assume 'Beats' Today," *Richmond Times Dispatch*, June 4, 1946; "Norfolk Hires 4 Negro Police," *New York PM*, February 5, 1946; "Negroes Added to the Police Force in Fayetteville," *Atlanta Daily World*, September 27, 1949; "Hire Cops in 2 Dixie Cities," *Chicago Defender*, March 12, 1949; "2 'Orleans Vets on Police Force," *Pittsburgh Courier*, June 24, 1950; "First Race Cops Patrol N.C. Town," *New York Amsterdam News*, August 19, 1950; "2 Vets Break Lily-White Police Pattern," *Baltimore Afro-American*, February 11, 1950; "Hartford to Get Negro Policemen," *Chicago Defender*, February 2, 1945; "Greenwich, Conn. Gets First Negro Policeman," *Chicago Defender*, July 20, 1951; "Three Colored Policemen Appointed in Newport," *Baltimore Afro-American*, September 1, 1951; "See Trend toward Negro Policemen in South," *New Orleans Louisiana Weekly*, October 28, 1946.

33. "Editor Issues Call for Negro Officers," *Charlotte Observer*, February 2, 1941. A similar argument regarding the right to equal protection as guaranteed under the Fourteenth Amendment appeared in the Norfolk press. See "Negro Petition for Police Job in Court Today," *Norfolk Pilot*, March 18, 1940.

34. "Asks That Negroes Be Named on Police Force," *Tampa Tribune*, September 6, 1942; "Allen Strongly Urges Use of Negro Police," *Norfolk Journal and Guide*, November 18, 1945.

35. "Crowd Demands Negro Officers," *Birmingham Age Herald*, March 6, 1946. Two months later, Savannah hired nine black officers, the first appointed by a Deep South state in the post-Reconstruction era. This breakthrough caused the Atlanta activists to redouble their efforts. That fall, the mayor of Atlanta announced his support of the proposal, as did his police chief. Eight black officers arrived on duty in 1948. See Dulaney 1984: 42–44.

36. "Negro Police for Memphis," *Memphis Commercial Appeal*, September 10, 1948. Although they were rarely mentioned in newspaper accounts, political considerations motivated some of the reforms, even in the South. For example, in 1943, when Greensboro was considering hiring black officers, a relatively large number of black voters had registered, and according to the press, "more than any other thing, it assured the proposal a fair hearing and serious consideration by city authorities." Black police were hired in Savannah in part because blacks were organizing to participate in the next round of municipal and state elections. Some newspapers reported that a third of the voters in the 1946 municipal elections were black. See "How Negro Police Worked out in One Southern City," *Jackson, TN, Christian Index*, March 11, 1948; "The Southeast," *New York Times*, September 13, 1947; Bem Price, "Many So-called Racial 'Incidents' Really are 'Caused,'" *Birmingham News*, February 14, 1952.

37. By the early 1950s, southern cities invested resources in training white officers to deal more effectively with black citizens. A new police college, the Southern Police Institute, located in and sponsored by Louisville, Kentucky, gave social as well as police training to white police officers from sixteen southern states and the District of Columbia. See "Employed in 77 Cities, Towns in 13 States," *Baltimore Afro-American*, May 5, 1951.

38. "Connor Vows Not to Appoint Negro Police," *Montgomery Advertiser*, February 11, 1953; "4-Man Group Probes Morale, Efficiency in Study of Dep't," *Pittsburgh Courier*, March 1, 1952; "Negro Police Debate," *Birmingham World*, February 24, 1953; "No Negro Policemen While He's in Office, Says Connor," *Birmingham News*, February 11, 1953; "NAACP Attacks Stand Taken by Connor against Negro Police," *Birmingham News*, February 23, 1953; "Survey Group Finds Negro Police Help Racial Feeling," *Birmingham News*, May 4, 1953; "Negro Policemen Favored," *Birmingham News*, November 10, 1953.

39. Connor is the single most critical local authority in many accounts of the southern campaign, including those by Garrow, McAdam, and Sitkoff. Consider Harvard Sitkoff's account of the Birmingham Police on May 3, 1963: "An enraged 'Bull' Connor, watching a thousand more students gather in church to receive their demonstration assignments, abandoned all restraint. He ordered his forces to bar the exits from the church, trapping inside half the young protesters, and then had his men charge into those who escaped and gathered in Kelly Ingram Park. The police, swinging nightsticks indiscriminately, beat demonstrators and onlookers. Attack dogs set loose sank their fangs into three fleeing children. Horrified at this mistreatment of their young, adults in the park hurled bricks and bottles at the policemen. 'Let 'em have it,' Connor commanded the firemen with the high-pressure hoses. With a sound like gunfire, streams of blistering water roared from the nozzles, blasting blacks against buildings and sweeping kids down slippery streets. The hundreds of pounds of pressure ripped the bark off trees . . . Those jailed that Friday brought the number of children arrested in two days to nearly thirteen hundred. King had his confrontation, and more" (Sitkoff 1993: 127).

40. Hon. Ernest F. Hollings, oral interview, July 8, 1980, 4, Oral History Project, Modern Political Collections, University of South Carolina Library, Columbia, South Carolina.

41. Monkonnen considered whether five theories—similar to the sociological and demographic mechanisms proposed here—might explain the fact that arrests for "crime" and homicide peaked in the early years of the Civil War: "The first explanation turns to the psychology of individual offenders, showing how war degrades its participants, who are often unable to behave correctly when they return to normal society . . . The second explanation finds economic disruption at the root of the crime wave, for the end of the war saw a recession coupled with veterans difficult reintegration into an economy that had adjusted to their absence . . . The third explanation finds community disruption as the cause of the crime wave, the forced geographical and social mobility of the war severing the social ties that presumably make people behave correctly . . . The fourth, . . . [is] more social-psychological, asserting the post-Civil War era to be one of increased anomie, the war having broken up traditional society . . . The fifth and final explanation comprehends the crime waves as necessary events in redefining the acceptable boundaries of behavior, first in a war-oriented, then a peace oriented society" (Monkkonen 1981: 79, nn. 26–29).

CHAPTER NINE: Civil Rights and the Democratization Trap

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1. For a parallel argument about the joint importance of state and civil society for the consolidation and preservation of democracy, see Berman 1997. Berman deals with the challenge of consolidating and preserving democracy. In a sense, I extend her framework to consider democratization as well.

2. For a critical view of the distinction between public and private forms of power, see J. Cohen 2002.

3. In the original enforcement scheme set forth in the 1964 act, the Department of Justice was empowered to bring suits in federal court alleging a "pattern or practice" of discriminatory behavior. In 1972, the act was amended to allow the EEOC to sue employers.

4. *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978); *Griggs v. Duke Power Company*, 420 F. 2d. 1225 (4th Cir.) (1970); *Griggs v. Duke Power Company*, 401 U.S. 424 (1971). In the recent University of Michigan affirmative action cases (*Gratz* v. *Bollinger*, 539 U.S. 244 [2003] and *Grutter v. Bollinger*, 539 U.S. 306 [2003]), sixty-eight *amicus curiae* briefs in support of the university's admissions policies were filed with the Supreme Court. Represented among the filers were nearly 90 major private and public universities and law schools, more than 60 major corporations, 22 state governments, 118 members of the House of Representatives, 14 U.S. senators, and 14 current and retired military leaders (including several former secretaries of defense and members of the Joint Chiefs of Staff). Compiled from material posted by the University of Michigan at www.umich.edu/~urel/admissions/legal/amicus.html.

5. "Quis custodiet ipsos custodes?" Juvenal, *Satires* 6.347–48.

6. For a more dispassionate analysis of this problem, see Skrentny 1996.

7. Memorandum, Clifford L. Alexander Jr. to Loyd Hackler, 28 Dec. 1967, FG, White House Central File (hereafter WHCF), Box 380; Memorandum, Clifford L. Alexander Jr. to Henry Fowler, 12 Apr. 1968, HU 2-1, WHCF, Box 44; both in Lyndon B. Johnson Library.

8. Everett Dirksen to Bryce Harlow, 7 Apr. 1969, CF FG 109, White House Staff File / WHCF, Box 23; Memorandum, Peter Flanigan to Kenneth Cole, 14 Apr. 1969, CF FG 109, White House Staff File / WHCF, Box 23; Memorandum, Leonard Garment to Flanigan, HU 2-2, WHCF, Box 17; Memorandum, Flanigan to Bill Timmons, 9 Apr. 1970, HU 2-2, Box 17; all in Nixon Presidential Materials, National Archives.

CHAPTER TEN: The Development of Democratic Citizenship

1. "President Bush Discusses Freedom in Iraq and Middle East," Remarks by the President at the 20th Anniversary of the National Endowment for Democracy, United States Chamber of Commerce (Washington, DC: White House) (www.whitehouse.gov/news/releases/2003/11/20031106-2.html); "First Inaugural Address" (Washington, DC, 2001) (www.bartleby.com/124/pres66.html).

CHAPTER ELEVEN: American Political Development and Comparative Democratization

1. There are a small number of rival claimants. The United Kingdom, for example, has sovereignty of parliament dating back three centuries and an unbroken legal tradition that arguably upholds certain basic rights. Barbados was subject to colonial rule, but its small planter class also supported an unbroken rule-of-law tradition.

2. *Rasul v. Bush*, 321 F. 3d 1134 (2004).

3. *Ex parte Milligan*, 71 U.S. 2 (1866).

4. *Moyer v. Peabody*, 212 U.S. 78 (1909).

5. See "Executive Order 13336: American Indian and Alaska Native Education" (Washington, DC: White House, Office of the Press Secretary, April 30, 2004); also in *Weekly Compilations of Presidential Documents*, Week Ending April 30 (Washington, DC: Government Printing Office, 2004).

6. "President Bush Proposes New Temporary Worker Program, Remarks by the President on Immigration Policy" (Washington, DC: White House, January 7, 2004).

7. *U.S. v. Morrison*, 529 U.S. 598 (2000).

8. *Baker v. Carr*, 369 U.S. 186 (1962); *Wesberry v. Sanders*, 376 U.S. 1 (1964).

9. *Shaw v. Reno*, 509 U.S. 630 (1993); *City of Mobile v. Bolden*, 446 U.S. 55 (1980).

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References

Abramson, Paul, John Aldrich, and David Rhode. 1998. *Change and Continuity in the 1996 Elections.* Washington, DC: Congressional Quarterly Press.

———. 2007. *Change and Continuity in the 2004 and 2006 Elections.* Washington, DC: Congressional Quarterly Press.

Acemoglu, Daron, and James A. Robinson. 2006. *Economic Origins of Dictatorship and Democracy.* New York: Cambridge University Press.

Ackerman, Bruce. 1998. *We the People: Transformations.* Cambridge, MA: Belknap Press of Harvard University Press.

"African American Fraternal Organizations and the History of Civil Society in the United States." 2004. Special Issue. *Social Science History* 28 (3).

Alexander, Gerard. 2002. *The Sources of Democratic Consolidation.* Ithaca, NY: Cornell University Press.

Almond, Gabriel A., and James S. Coleman, eds. 1960. *The Politics of the Developing Areas.* Princeton, NJ: Princeton University Press.

Almond, Gabriel, and Sidney Verba. 1965. *The Civic Culture.* Boston, MA: Little and Brown.

Alvarez, R. Michael, and John Brehm. 1997. "Are Americans Ambivalent towards Racial Policies?" *American Journal of Political Science* 41: 345–74.

Amar, Akhil Reed. 1991. "The Bill of Rights as a Constitution." *Yale Law Journal* 100: 1131–1211.

———. 1998. *The Bill of Rights: Creation and Reconstruction.* New Haven, CT: Yale University Press.

Amar, Vikram David. 1995. "Jury Service as Political Participation Akin Voting." *Cornell Law Review* 203: 3–60.

Anderson, Lisa, ed. 1999. *Transitions to Democracy.* New York: Columbia University Press.

Anderson, Perry. 1974. *Lineages of the Absolutist State.* London: Verso.

Ansolabehere, Stephen D., Shanto Iyengar, and Adam Simon. 1999. "Replicating Experiments Using Aggregate and Survey Data: The Case of Negative Advertising and Turnout." *American Political Science Review* 93: 901–10.

"Appeal of Forty Thousand Citizens Threatened with Disfranchisement, to the People of Pennsylvania." 1838. Reprinted in the *Liberator*, April 13, 8.

Appiah, K. Anthony, and Amy Gutmann. 1996. *Color Conscious.* Princeton, NJ: Princeton University Press.

Appleby, Joyce. 2000. *Inheriting the Revolution: The First Generation of Americans.* Cambridge, MA: Harvard University Press.

Argersinger, Peter H. 2001. "The Transformation of American Politics: Political Institu-

tions and Public Policy 1865–1910." In *Contesting Democracy.* Ed. B. E. Shafer and A. J. Badger. Lawrence: University Press of Kansas.
Arnold, R. Douglas. 1990. *The Logic of Congressional Action.* New Haven, CT: Yale University Press.
Barnes, Catherine A. 1983. *Journey from Jim Crow: The Desegregation of Southern Transit.* New York: Columbia University Press.
Bartels, Larry M. 2000. "Campaign Quality: Standards for Evaluation, Benchmarks for Reform." In *Campaign Reform: Insights and Evidence.* Ed. Larry M. Bartels and Lynn Vavreck. Ann Arbor: University of Michigan Press.
Bates, Robert H., Avner Greif, Margaret Levi, Jean-Laurent Rosenthal, and Barry R. Weingast. 1998. *Analytical Narratives.* Princeton, NJ: Princeton University Press.
Becker, Mary. 1992. "The Politics of Women's Wrongs and the Bill of 'Rights': A Bicentennial Perspective." *University of Chicago Law Review* 59: 453–517.
Beirne, D. Randall. 1988. "The Impact of Black Labor on European Immigration into Baltimore's Oldtown, 1790–1910." *Maryland Historical Magazine* 83: 334–42.
Belknap, Michael R. 1987. *Federal Law and Southern Order: Racial Violence and Constitutional Conflict in the Post*-Brown *South.* Athens: University of Georgia Press.
Belz, Herman. 1991. *Equality Transformed: A Quarter-Century of Affirmative Action.* New Brunswick, NJ: Transaction.
Bensel, Richard Franklin. 1980. "Creating the Statutory State: The Implications of a Rule of Law Standard in American Politics." *American Political Science Review* 74: 734–44.
———. 1984. *Sectionalism and American Political Development 1880–1980.* Madison: University of Wisconsin Press.
———. 1990. *Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877.* Cambridge: Cambridge University Press.
———. 2000. *The Political Economy of American Industrialization, 1877–1890.* Cambridge: Cambridge University Press.
———. 2004. *The American Ballot Box in the Mid-Nineteenth Century.* Cambridge: Cambridge University Press.
Berinsky, Adam J. 1999. "The Two Faces of Public Opinion." *American Journal of Political Science* 43: 1209–30.
———. 2001. "Political Context." Working paper, Department of Political Science, MIT.
Berlin, Ira. 1974. *Slaves without Masters: The Free Negro in the Antebellum South.* New York: Random House.
Berman, Sheri. 1997. "Civil Society and the Collapse of the Weimar Republic." *World Politics* 49: 401–29.
Bermeo, Nancy. 2003. *Ordinary People in Extraordinary Times.* Princeton, NJ: Princeton University Press.
Berns, Walter. 2001. *Making Patriots.* Chicago: University of Chicago Press.
Bernstein, Marver H. 1955. *Regulating Business by Independent Commission.* Princeton, NJ: Princeton University Press.
Bickel, Alexander M. 1986. *The Least Dangerous Branch: The Supreme Court at the Bar of Politics.* 2d ed. New Haven, CT: Yale University Press.
Blumrosen, Alfred W. 1971. *Black Employment and the Law.* New Brunswick, NJ: Rutgers University Press.

Bobo, Lawrence D. 2000. "Book review of *Why Americans Hate Welfare* and of *Crime, Public Opinion and Civil Liberties.*" *Public Opinion Quarterly* 64: 229–34.

Bobo, Lawrence D., and James R. Kluegel. 1997. "Status, Ideology, and Dimensions of Whites' Racial Beliefs and Attitudes: Progress and Stagnation." In *Racial Attitudes in the 1990s: Continuity and Change.* Ed. Steven A. Tuch and Jack K. Martin. Westport, CT: Praeger.

Boix, Carles. 2003. *Democracy and Redistribution.* Cambridge: Cambridge University Press.

Brennan, William J. Jr. 1989. "Why Have a Bill of Rights?" *Oxford Journal of Legal Studies* 9: 425–40.

Brinkley, Alan. 1995. *The End of Reform: New Deal Liberalism in Recession and War.* New York: Alfred A. Knopf.

Brock, Kathy. 2000. "Finding Answers in Difference: Canadian and American Aboriginal Policy Compared." In *Canada and the United States: Differences that Count.* 2d ed. Ed. David M. Thomas. Peterborough, Ont.: Broadview Press.

Brown, Michael K., Martin Carnoy, Elliott Currie, Troy Duster, David B. Oppenheimer, Marjorie M. Shultz, and David Wellman. 2003. *Whitewashing Race: The Myth of a Color-Blind Society.* Berkeley: University of California Press.

Brown, Wendy. 1995. *States of Injury.* Princeton, NJ: Princeton University Press.

———. 2001. *Politics out of History.* Princeton, NJ: Princeton University Press.

Brown-Dean, Khalilah. 2007. "Permanent Outsiders, Felon Disenfranchisement and the Breakdown of Black Politics." *National Political Science Review* 11: 23–43.

Brundage, W. Fitzhugh. 1993. *Lynching in the New South: Georgia and Virginia, 1880–1930.* Urbana: University of Illinois Press.

———. 1997. "The Roar on the Other Side of Silence: Black Resistance and White Violence in the American South, 1880–1940." In *Under Sentence: Lynching in the South.* Ed. W. Fitzhugh Brundage. Chapel Hill: University of North Carolina Press.

Bullock, Charles S. III, and Katharine Inglis Butler. 1985. "Voting Rights." In *The Reagan Administration and Human Rights.* Ed. Tinsley E. Yarbrough. New York: Praeger.

Burns, Nancy, Kay Lehman Schlozman, and Sidney Verba. 2001. *The Private Roots of Public Action: Gender, Equality, and Political Participation.* Cambridge, MA: Harvard University Press.

Büthe, Tim. 2002. "Taking Temporality Seriously: Modelling History and the Use of Narratives as Evidence." *American Political Science Review* 96: 481–93.

Button, James W. 1989. *Blacks and Social Change: Impact of the Civil Rights Movement in Southern Communities.* Princeton, NJ: Princeton University Press.

Callcott, Margaret Law. 1969. *The Negro in Maryland Politics, 1870–1912.* Baltimore: Johns Hopkins University Press.

Campbell, Andrea Louise. 2003. *How Policies Make Citizens: Senior Political Activism and the American Welfare State.* Princeton, NJ: Princeton University Press.

Campbell, James E. 2006. "Party Systems and Realignments in the United States, 1868–2004." *Social Science History* 30: 359–86.

Campbell, John L., and Ove K. Pedersen. 2001. "The Rise of Neoliberalism and Institutional Analysis." In *The Rise of Neoliberalism and Institutional Analysis.* Ed. L. Campbell and Ove K. Pedersen. Princeton, NJ: Princeton University Press.

Cancellieri, Mark. 1999. "Budgeting for Civil Rights: The Case of the EEOC." M.A. thesis, University of New Orleans.

Canon, David T. 1999. *Race Redistricting and Representation: The Unintended Consequences of Black Majority Districts.* Chicago: University of Chicago Press.

Cantrell, Gregg, and D. Scott Barton. 1989. "Texas Populists and the Failure of Biracial Politics." *Journal of Southern History* 55: 659–92.

Capoccia, Giovanni. 2005. *Defending Democracy.* Baltimore: Johns Hopkins University Press.

Carmines, Edward G., and James A. Stimson. 1989. *Issue Evolution: Race and the Transformation of American Politics.* Princeton, NJ: Princeton University Press.

Carpenter, Daniel P. 2001. *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928.* Princeton, NJ: Princeton University Press.

———. 2003. "The Multiple and Material Legacies of Stephen Skowronek." *Social Science History* 27: 465–74.

Carr, Raymond. 1984. *Puerto Rico: A Colonial Experiment.* New York: Twentieth Century Fund.

Carte, Gene E., and Elaine H. Carte. 1975. *Police Reform in the United States: The Era of August Vollmer, 1905–1932.* Berkeley: University of California Press.

Cashmore, Ellis. 1991. "Black Cops, Inc." In *Out of Order? Policing Black People.* New York: Routledge.

Catt, Carrie Chapman. 1923. "Are Women Disappointed in Politics?" *The Woman Citizen*, no. 14 (November 3).

Cebollero, Pedro A. 1945. *A School Language Policy for Puerto Rico.* San Juan, PR: Superior Educational Council.

Chafe, William H. 1980. *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom.* New York: Oxford University Press.

Chambers, Simone. 1996. *Reasonable Democracy: Jürgen Habermas and the Politics of Discourse.* Ithaca, NY: Cornell University Press.

Chapman, Arthur. 1986. "The History of the Black Police Force and Court in the City of Miami." Ph.D. diss., University of Miami.

Chesnutt, Charles W. 2003. "The Disfranchisement of the Negro." In *The Negro Problem: Centennial Edition.* Ed. Bernard R. Boxill. New York: Humanity Books.

Churchill, Ward, and Jim Vander Wall. 2002. *Agents of Repression: The FBI's Secret Wars Against the Black Panther Party and the American Indian Movement.* 2d ed. Cambridge, MA: South End Press.

Clemens, Elisabeth S. 1997. *The People's Lobby: Organizational Innovation and the Rise of Interest Group Politics in the United States, 1890–1925.* Chicago: University of Chicago Press.

Cobb, James C. 1992. *The Most Southern Place on Earth: The Mississippi Delta and the Roots of Southern Identity.* Oxford: Oxford University Press.

Cohen, Jean L. 2002. *Regulating Intimacy: A New Legal Paradigm.* Princeton, NJ: Princeton University Press.

Cohen, William. 1991. *At Freedom's Edge: Black Mobility and the Southern White Quest for Racial Control, 1861–1915.* Baton Rouge: Louisiana State University Press.

Collier, Ruth Berins. 1999. *Paths toward Democracy: The Working Class and Elites in Western Europe and South America.* New York: Cambridge University Press.

Collier, Ruth Berins, and David Collier. 1991/2002. *Shaping the Political Arena.* Prince-

ton, NJ: Princeton University Press. Reissued by University of Notre Dame Press in 2002.

Congressional Quarterly. 1997a. *1996 Almanac.* Vol. 52. Washington, DC: Congressional Quarterly Press.

———.1997b. "Law and Law Enforcement, 1993–1996 Legislative Overview." In *Congress and the Nation, 1993–199.* Vol. 9. Washington, DC: Congressional Quarterly Press.

Congressional Record. 1901. *56th Congress, Second Session.* Vol. 34. Washington, DC: Government Printing Office.

"Constitutionality of Minimum Wage Statutes." 1923. *Columbia Law Review* 23 (June): 566.

"Constitutional Law: Police Power: Minimum Wage for Women." 1923. *California Law Review* 11 (July): 315–65.

Cooper, John. 1980. *The Police and the Ghetto.* Port Washington, NY: National University Press.

Cramer-Walsh, Katherine. 2004. *Talking about Politics: Informal Groups and Social Identity in American Life.* Chicago: University of Chicago Press.

Crozier, Michel, Samuel P. Huntington, and Joji Watanuki. 1975. *The Crisis of Democracy: Report on the Governability of Democracies to the Trilateral Commission.* New York: New York University Press.

Dahl, Robert A. 1971. *Polyarchy: Participation and Opposition.* New Haven, CT: Yale University Press.

———. 1989. *Democracy and Its Critics.* New Haven, CT: Yale University Press.

———. 1998. *On Democracy.* New Haven, CT: Yale University Press.

———. 2002. *How Democratic Is the American Constitution?* New Haven, CT: Yale University Press.

Davidson, Chandler, and Bernard Grofman, eds. 1994. *Quiet Revolution in the South: The Impact of the Voting Rights Act 1965–1990.* Princeton, NJ: Princeton University Press.

Dawson, Michael. 1994. *Behind the Mule: Race and Class in African-American Politics.* Chicago: University of Chicago Press.

de Beauvoir, S. 1989. *The Second Sex.* Trans. and ed. H. M. Parshley. New York: Vintage Books.

De la Garza, Rodolfo O., Angelo Falcon, and F. Chris Garcia. 1996. "Will the Real Americans Please Stand Up: Anglo and Mexican-American Support of Core American Political Values." *American Journal of Political Science* 40: 335–51.

Deutsch, Karl W. 1961. "Social Mobilization and Political Development." *American Political Science Review* 55: 493–514.

Diamond, Larry. 1999. *Developing Democracy: Toward Consolidation.* Baltimore: Johns Hopkins University Press.

Diaz, William. 1996. "Latino Participation in America: Associational and Political Roles." *Hispanic Journal of Behavioral Sciences* 18: 154–74.

Dionne, E. J. Jr., and William Kristol, eds. 2001. *Bush v. Gore: The Court Cases and the Commentary.* Washington, DC: Brookings Institution.

Dobbin, Frank, and John R. Sutton. 1998. "The Strength of a Weak State: The Rights Revolution and the Rise of Human Resource Management Divisions." *American Journal of Sociology* 104: 441–76.

Donohue, John J. III, and James Heckman. 1991. "Continuous versus Episodic Change: The Impact of Civil Rights Policy on the Economic Status of Blacks." *Journal of Economic Literature* 29: 1603–43.

Douglass, Frederick. 1892. "Lynch Law in the South." *North American Review* 155: 12–20.

Dray, Philip. 2002. *At the Hands of Persons Unknown.* New York: Modern Library.

Du Bois, W. E. B. 1997. *The Souls of Black Folk.* New York: Penguin.

Dudziak, Mary. 2000. *Cold War Civil Rights.* Princeton, NJ: Princeton University Press.

———. 2003. "Birmingham, Addis Ababa and the Image of America: International Influence on US Civil Rights Politics in the Kennedy Administration." In *Window on Freedom: Race, Civil Rights and Foreign Affairs 1945–1988.* Ed. Brenda Gayle Plummer. Chapel Hill: University of North Carolina Press.

Dulaney, William Marvin. 1984. "Black Shields: A Historical and Comparative Survey of Blacks in American Police Forces." Ph. D. diss., Ohio State University.

———. 1996. *Black Police in America.* Bloomington: Indiana University Press.

Durand, Jorge, Douglas S. Massey, and Emilio A. Parrado. 1999. "The New Era of Mexican Migration to the United States." *Journal of American History* 86: 518–36.

Dworkin, Ronald. 1996. *Freedom's Law: The Moral Reading of the American Constitution.* New York: Oxford University Press.

Edsall, Thomas B., and Mary D. Edsall. 1991. *Chain Reaction: The Impact of Race, Rights, and Taxes on American Politics.* New York: W. W. Norton.

Edwards, George C. III. 2004. *Why the Electoral College Is Bad for America.* New Haven, CT: Yale University Press.

Edwards, Laura F. 1998. "The Problem of Dependency: African Americans, Labor Relations, and the Law in the Nineteenth-Century South." *Agricultural History* 72: 334–58.

Eisenstadt, S. N. 2002. "The First Multiple Modernities: Collective Identities, Public Spheres and Political Order in the Americas." In *Globality and Multiple Modernities: Comparative North American and Latin American Perspectives.* Ed. Luis Roniger and Carolos H. Waisman. Brighton, UK: Sussex Academic Press.

Ellis, Joseph J. 1998. *American Sphinx: The Character of Thomas Jefferson.* New York: Vintage.

Elster, Jon. 2000. "Rational Choice History: A Case of Excessive Ambition." *American Political Science Review* 94: 685–95.

Encarnación, Omar G. 2000. "Beyond Transitions: The Politics of Democratic Consolidation." *Comparative Politics* 32: 480–98.

Entman, Robert M., and Andrew Rojecki. 2000. *The Black Image in the White Mind: Media and Race in America.* Chicago: University of Chicago Press.

Epstein, David, and Sharyn O'Halloran. 1999. *Delegating Powers: A Transaction Cost Politics Approach to Policy Making under Separate Powers.* Cambridge: Cambridge University Press.

Epstein, Richard A. 1992. *Forbidden Grounds: The Case against Employment Discrimination Laws.* Cambridge, MA: Harvard University Press.

Evans, Peter B., Dietrich Rueschemeyer, and Theda Skocpol, eds. 1985. *Bringing the State Back In.* Cambridge: Cambridge University Press.

Farber, Daniel. 2003. *Lincoln's Constitution.* Chicago: University of Chicago Press.

Farhang, Sean. 2003. "Congressional Control of Litigation Rates: An Empirical Investi-

gation of the Effects of the Civil Rights Act of 1991." Paper presented at the Midwest Political Science Association, Chicago.

———. 2008. "The Political Development of Job Discrimination Litigation, 1963–1976." Jurisprudence and Social Policy Program / Center for the Study of Law and Society Faculty Working Paper No. 59. Berkeley: University of California, Berkeley, Center for the Study of Law and Society, Jurisprudence and Social Policy Program.

———. Forthcoming. "Public Regulation and Private Lawsuits in the American Separation of Powers System." *American Journal of Political Science.*

Farley, Reynolds, and William Frey. 1994. Changes in the segregation of whites from blacks during the 1980s. *American Sociological Review* 59: 23–45.

Fearon, James D., and David D. Laitin. 1996. "Explaining Interethnic Cooperation." *American Political Science Review* 90: 715–35.

Field, Phyllis. 1982. *The Politics of Race in New York: The Struggle for Black Suffrage in the Civil War Era.* Ithaca, NY: Cornell University Press.

Fields, Barbara. 1985. *Slavery and Freedom on the Middle Ground: Maryland during the Nineteenth Century.* New Haven, CT: Yale University Press.

Finkel, Steven E., and John Geer. 1998. "A Spot Check: Casting Doubt on the Demobilizing Effect of Attack Advertising." *American Journal of Political Science* 42: 573–95.

Finnegan, Terence. 1997. "Lynching and Political Power in Mississippi and South Carolina." In *Under Sentence of Death: Lynching in the South.* Ed. W. Fitzhugh Brundage. Chapel Hill: University of North Carolina Press.

Fischer, David Hackett. 1989. *Albion's Seed: Four British Folkways in America.* New York: Oxford University Press.

Fogelson, Robert M. 1968. "From Resentment to Confrontation: The Police, the Negroes, and the Outbreak of the Nineteen-Sixties Riots." *Political Science Quarterly* 83: 45–62.

———. 1970. *The Professionalization of the Police: An Essay on the Limitations of Institutional Change in Urban America, 1890–1970.* Cambridge, MA: M.I.T. Press.

———. 1977. *Big City Police.* Cambridge, MA: Harvard University Press.

Foner, Eric. 1999. *The Story of American Freedom.* London: Picador.

———. 2001. "American Freedom in a Global Age." *American Historical Review* 106: 1–16.

———. 2002. *Reconstruction: America's Unfinished Revolution, 1863–1877.* New York: Perennial Classics.

Forbath, William. 2005. "Social Rights, Courts and Constitutional Democracy: Poverty and Welfare Rights in the United States." *Democratization* 12: 720–40.

Foucault, Michel. 2000. "Foucault et la Question du Liberalisme." In *Horizons-Documents-Le Monde / Le Siecle.* Paris: Olsen.

Foweraker, Joe, and Roman Krznaric. 2003. "Differentiating the Democratic Performance of the West." *European Journal of Political Research* 42: 313–40.

Foweraker, Joe, and Todd Landman. 2002. "Constitutional Design and Democratic Performance." *Democratization* 9: 43–66.

Fredrickson, George. 1971. *The Black Image in the White Mind.* New York: Harper and Row.

———. 2003. *The Historical Construction of Race and Citizenship in the United States.* Geneva: United Nations Research Institute for Social Development.

Fuke, Richard. 1997. "Blacks, Whites and Guns: Interracial Violence in Post-Emancipation Maryland." *Maryland Historical Journal* 92: 333–40.
Fukuyama, Francis. 1992. *The End of History and the Last Man*. New York: Free Press.
Fung, Archon. 2004. *Empowered Participation: Reinventing Urban Democracy*. Princeton, NJ: Princeton University Press.
Garrow, David J. 1986. *Bearing the Cross: Martin Luther King, Jr. and the SCLC*. New York: Vintage Books.
Gerschenkron, Alexander. 1962. *Economic Backwardness in Historical Perspective: A Book of Essays*. Cambridge, MA: Harvard University Press.
Gerstle, Gary, and John H. Mollenkopf, eds. 2001. *E Pluribus Unum? Perspectives in Immigrant Political Incorporation*. New York: Russell Sage Foundation.
Gibbins, Roger. 2002. "Constitutional Perspectives on Modernity: The Canadian Experience." In *Globality and Multiple Modernities: Comparative North American and Latin American Perspectives*. Ed. Luis Roniger and Carlos H. Waisman. Brighton, UK: Sussex Academic Press.
Gilens, Martin. 1999. *Why Americans Hate Welfare*. Chicago: University of Chicago Press.
Gill, Graeme. 2000. *The Dynamics of Democratization: Elites, Civil Society and the Transition Process*. New York: St. Martin's Press.
Gillette, William. 1979. *Retreat from Reconstruction, 1869–1879*. Baton Rouge: Louisiana State University Press.
Gilliam, Frank D. Jr., and Shanto Iyengar. 2000. "Prime Suspects: The Influence of Local Television News on the Viewing Public." *American Journal of Political Science* 44: 560–73.
Gillman, Howard. 1993. *The Constitution Besieged: The Rise and Decline of Lochner Era Police Powers Jurisprudence*. Durham, NC: Duke University Press.
Gilmore, Glenda. 1996. *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896–1920*. Chapel Hill: University of North Carolina Press.
Ginsburg, Ruth Bader. 1978. "Sex Equality and the Constitution." *Tulane Law Review* 52: 451–75.
———. 1994. "U.S. Supreme Court Justice Ruth Bader Ginsburg Visits John Marshall." *JMLS Alumni News*, April, 2–8.
Glaeser, Edward L., and Jacob L. Vigdor. 2001. "Racial Segregation in the 2000 Census: Promising News." Center on Urban and Metropolitan Policy Survey Series. April. Washington, DC: Brookings Institution.
Goldsmith, Jack, and Cass Sunstein. 2002. "Military Tribunals and Legal Culture: What a Difference Sixty Years Makes." *Constitutional Commentary* 19: 261–90.
González, Francisco E., and Desmond King. 2004. "The State and Democratization: The United States in Comparative Perspective." *British Journal of Political Science* 34: 193–210.
González, Juan. 2000. *Harvest of Empire: A History of Latinos in America*. New York: Viking.
Gordon, Fan Louise. 1995. *Caste and Class: The Black Experience in Arkansas, 1880–1920*. Athens: University of Georgia Press.
Gould, Jeffrey. 1984. "The Strike of 1887: Louisiana Sugar War." *Southern Exposure* 12: 45–55.
Gracia, Jorge J. E. 2000. *Hispanic/Latino Identity: A Philosophical Perspective*. Oxford: Blackwell.

Graham, Hugh Davis. 1990. *The Civil Rights Era: Origins and Development of National Policy, 1960–1972.* New York: Oxford University Press.

Greenstone, J. David, and Paul E. Peterson. 1973. *Race and Authority in Urban Politics: Community Participation and the War on Poverty.* New York: Russell Sage Foundation.

Gross, Oren 2003. "Chaos and Rules: Should Responses to Violent Crisis Always Be Constitutional?" *Yale Law Journal* 112: 1011–1134.

Gundersen, Joan R. 1996. *To Be Useful to the World: Women in Revolutionary America, 1740–1790.* New York: Twayne.

Gurr, Ted Robert, Keith Jaggers, and Will H. Moore. 1990. "The Transformation of the Western State: The Growth of Democracy, Autocracy, and State Power since 1800." *Studies in Comparative International Development* 25: 73–108.

Gutmann, Amy, and Dennis Thompson. 1996. *Democracy and Disagreement.* Cambridge, MA: Harvard University Press.

Habermas, Jürgen. 1989. *The Structural Transformation of the Public Sphere.* Cambridge, UK: Polity.

Hacker, Andrew. 1995. *Two Nations: Black and White, Separate, Hostile, Unequal.* New York: Ballantine.

Hacker, Jacob S. 2002. *The Divided Welfare State: The Battle over Public and Private Social Benefits in the United States.* New York: Cambridge University Press.

———. 2004. "Privatizing Risk without Privatizing the Welfare State: The Hidden Politics of Social Policy Retrenchment in the United States." *American Political Science Review* 98: 243–60.

Hacker, Jacob S., Suzanne Mettler, and Dianne Pinderhughes. 2005. "Inequality and Public Policy." In *Inequality and American Democracy.* Ed. Lawrence Jacobs and Theda Skocpol. New York: Russell Sage Foundation.

Hahn, Steven. 1990. "Class and State in Post Emancipation Societies: Southern Planters in Comparative Perspective." *American Historical Review* 95: 86–100.

———. 2003. *A Nation under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration.* Cambridge, MA: Belknap Press of Harvard University Press.

Hale, W. J. 1985. *War and Society in Renaissance Europe, 1450–1620.* New York: St. Martin's Press.

Hall, Jacquelyn Dowd. 1983. "The Mind That Burns in Each Body": Women, Rape, and Racial Violence." In *Powers of Desire: The Politics of Sexuality.* Ed. Ann Snitow, Christine Stansell, and Sharon Thompson. London: Virago.

Hall, Peter A., and Rosemary C. R. Taylor. 1996. "Political Science and the Three New Institutionalisms." *Political Studies* 44: 936–57.

Hampton, Wade. 1879. "Ought the Negro to Be Disfranchised? Ought He to Have Been Enfranchised?" *North American Review* 128: 240.

Harper, Ida Husted, ed. 1922. *History of Woman Suffrage.* Vol. 5. New York: J. J. Little & Ives.

Harris, Frederick. 1999. "Will the Circle Be Unbroken? The Erosion and Transformation of African-American Civic Life." In *Civil Society, Democracy, and Civic Renewal.* Ed. R. Fullinwider. Lanham, MD: Rowman & Littlefield.

———. 2002. "Collective Memory, Collective Action, and Black Activism in the 1960s." In *Breaking the Cycles of Hatred: Memory, Law, and Repair.* Ed. Martha Minow. Princeton, NJ: Princeton University Press.

———. 2006. " 'It Takes a Tragedy to Arouse Them': Collective Memory and Collective Action during the Civil Rights Movement." *Social Movement Studies* 5: 54–73.
Harris, Frederick C., Valeria Sinclair-Chapman, and Brian D. McKenzie. 2005. *Countervailing Forces in African-American Civic Activism 1973–1994.* New York: Cambridge University Press.
Harris, Leslie. 2003. *In the Shadow of Slavery: African Americans in New York City, 1626–1863.* Chicago: University of Chicago Press.
Hartog, Hendrik. 1987. "The Constitution of Aspiration and the Rights That Belong to Us All." *Journal of American History* 74: 1013–34.
Hartz, Louis. 1955. *The Liberal Tradition in America: An Interpretation of American Political Thought since the Revolution.* New York: Harcourt Brace.
Hartzell, Lawrence. 1991. "The Exploration of Freedom in Black Petersburg, Virginia, 1865–1902." In *The Edge of the South: Life in Nineteenth Century-Virginia.* Ed. Edward Ayers and John C. Willis. Charlottesville: University of Virginia Press.
Harvard Law Review. 1985. "Political Legitimacy in the Law of Political Asylum." 99: 450–71.
Hattam, Victoria. 2007. *In the Shadow of Race.* Chicago: University of Chicago Press.
Heckman, James J. 1990. "The Central Role of the South in Accounting for the Economic Progress of Black Americans." *American Economic Review* 80: 242–46.
Heckman, James J., and Brook S. Payner. 1989. "Determining the Impact of Federal Antidiscrimination Policy on the Economic Status of Blacks: A Study of South Carolina." *American Economic Review* 79: 138–77.
Held, David. 1996. *Models of Democracy.* 2d ed. Stanford, CA: Stanford University Press.
Hero, Rodney, and Anne Campbell. 1996. "Understanding Latino Political Participation: Exploring the Evidence from the Latino National Political Survey." *Hispanic Journal of Behavioral Sciences* 18: 129–41.
Higley, John, and Richard Gunther. 1992. *Elites and Democratic Consolidation in Latin America and Southern Europe.* Cambridge: Cambridge University Press.
Hill, Robert A., ed. 1995. *The FBI's RACON: Racial Conditions in the United States during World War II.* Boston: Northeastern University Press.
Hobsbawm, E. J. 1968. *Industry and Empire: The Making of Modern English Society, 1750 to the Present Day.* New York: Pantheon.
Holmes, William F. 1969. "Whitecapping: Agrarian Violence in Mississippi, 1902–1906." *Journal of Southern History* 35: 165–85.
Holt, Sharon. 1994. "Making Freedom Pay: Freedpeople Working for Themselves, North Carolina, 1865–1900." *Journal of Southern History.* 60: 255–75
Holzer, Harold, ed. 1993. *The Lincoln-Douglas Debates.* New York: Harper Collins.
Honig, Bonnie. 2001. *Democracy and the Foreigner.* Princeton, NJ: Princeton University Press.
Horowitz, David. 2000. *The Death of the Civil Rights Movement.* Los Angeles: Center for the Study of Popular Culture.
Huckfeldt, Robert, and Carol Kohfeld. 1989. *Race and the Decline of Class in American Politics.* Urbana: University of Illinois Press.
Hunter, Tera W. 1997. *To 'Joy My Freedom: Southern Black Women's Lives and Labors after the Civil War.* Cambridge, MA: Harvard University Press.
Huntington, Samuel P. 1952. "The Marasmus of the ICC: The Commission, the Railroads, and the Public Interest." *Yale Law Journal* 61: 467–509.

———. 1968. *Political Order in Changing Societies.* New Haven, CT: Yale University Press.
———. 1981. *American Politics: The Promise of Disharmony.* Cambridge, MA: Harvard University Press.
———. 1991. *The Third Wave: Democratization in the Late Twentieth Century.* Norman: University of Oklahoma Press.
———. 1996. "Democracy for the Long Haul." *Journal of Democracy* 7: 1–15.
———. 2004a, "The Hispanic Challenge." *Foreign Policy,* March/April.
———. 2004b. *Who Are We? The Challenge to America's National Identity.* New York: Simon & Schuster.
Hurwitz, Jon, and Mark Peffley. 1997. "Public Perceptions of Race and Crime: The Role of Racial Stereotypes." *American Journal of Political Science* 41: 375–401.
Iglesias, David (with Davin Seay). 2008. *In Justice: Inside the Scandal That Rocked the Bush Administration.* New York: Wiley.
Immergut, Ellen M. 1998. "The Theoretical Core of the New Institutionalism." *Politics and Society* 26: 5–34.
Ingram, Helen, and Steven Rathgeb Smith, eds. 1993. *Public Policy for Democracy.* Washington, DC: Brookings Institution.
Jacobs, Lawrence R., and Robert Y. Shapiro. 2000. *Politicians Don't Pander: Political Manipulation and the Loss of Democratic Responsiveness.* Chicago: University of Chicago Press.
Jacobs, Meg, William J. Novak, and Julian E. Zelizer, eds. 2003. *The Democratic Experiment: New Directions in American Political History.* Princeton, NJ: Princeton University Press.
Jacoby, Tamar. 1998. *Someone Else's House: America's Unfinished Struggle for Integration.* New York: Free Press.
James, Scott C. 2000. *Presidents, Parties, and the State: A Party System Perspective on Democratic Regulatory Choice.* Cambridge: Cambridge University Press.
Johnson, Kimberley S. 2007. *Governing the American State: Congress and the New Federalism 1877–1929.* Princeton, NJ: Princeton University Press.
Justesen, Benjamin. 2001. *George Henry White: An Even Chance in the Race of Life.* Baton Rouge: Louisiana State University Press.
Kahn, Kim Fridkin, and Patrick J. Kenney. 1999. "Do Negative Campaigns Mobilize or Suppress Turnout? Clarifying the Relationship between Negativity and Participation." *American Political Science Review* 93: 877–90.
Kantrowitz, Stephen. 2000. *Ben Tillman and the Reconstruction of White Supremacy.* Chapel Hill: University of North Carolina Press.
Karl, Terry Lynn. 2000. "Economic Inequality and Democratic Instability." *Journal of Democracy* 11: 149–56.
Karpowitz, Christopher F. 2006. "Having a Say: Public Hearings, Deliberation, and Democracy in America." Ph.D. diss., Princeton University.
Katz, Michael B. 1986. *In the Shadow of Poorhouse: A Social History of Welfare in America.* New York: Basic Books.
Katz, Michael B., and Christoph Sachsse, eds. 1996. *The Mixed Economy of the Welfare State: Public/Private Relations in England, Germany, and the United States, the 1870s to the 1930s.* Baden-Baden, Germany: Nomos.
Katznelson, Ira. 1973. *Black Men, White Cities: Race, Politics, and Migration in the United States, 1948–1968.* Chicago: University of Chicago Press.

———. 2002a. "Rewriting the Epic of America." In *Shaped by War and Trade: International Influences on American Political Development.* Ed. Ira Katznelson and Martin Shefter. Princeton, NJ: Princeton University Press.
———. 2002b. "Flexible Capacity: The Military and Early American Statebuilding." In *Shaped by War and Trade: International Influences on American Political Development.* Ed. Ira Katznelson and Martin Shefter. Princeton, NJ: Princeton University Press.
———. 2004. *When Affirmative Action Was White.* New York: W. W. Norton.
Katznelson, Ira, and Martin Shefter, eds. 2002. *Shaped by War and Trade: International Influences on American Political Development.* Princeton, NJ: Princeton University Press.
Kennickell, Arthur. 2003. "A Rolling Tide: Changes in the Distribution of Wealth in the U.S., 1989–2001." Federal Reserve Board. September. www.federalreserve.gov/pubs/oss/oss2/papers/concentration.2001.10.pdf.
Kenzer, Robert C. 1997. *Enterprising Southerners: Black Economic Success in North Carolina, 1865–1915.* Charlottesville: University Press of Virginia.
Kerber, Linda K. 1998. *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship.* New York: Hill and Wang.
Key, V. O. Jr. 1949. *Southern Politics in State and Nation.* New York: Alfred A. Knopf.
Keyssar, Alexander. 2000. *The Right to Vote: The Contested History of Democracy in the United States.* New York: Basic Books.
Kharif, Wali R. 1985. "Black Reaction to Segregation and Discrimination in Post-Reconstruction Florida." *Florida Historical Quarterly* 64 (2): 95–114.
Kinder, Donald R., and Tali Mendelberg. 1995. "Cracks in American Apartheid." *Journal of Politic* 57: 402–24.
Kinder, Donald R., and Lynn M. Sanders. 1996. *Divided by Color.* Chicago: University of Chicago Press.
King, Desmond. 1995. *Separate and Unequal: Black Americans and the US Federal Government.* Oxford: Oxford University Press.
———. 2000. *Making Americans: Immigration, Race, and the Origins of the Diverse Democracy.* Cambridge, MA: Harvard University Press.
———. 2005a. *The Liberty of Strangers: Making the American Nation.* New York: Oxford University Press.
———. 2005b. "Making People Work: Democratic Consequences of Workfare." In *Welfare Reform and Political Theory.* Ed. Lawrence M. Mead and C. Beem. New York: Russell Sage Foundation.
King, Desmond S., and Rogers M. Smith. 2005. "Racial Orders in American Political Development." *American Political Science Review* 99: 75–92.
———. 2008. "Strange Bedfellows? Polarized Politics? The Quest for Racial Equity in Contemporary America." *Political Research Quarterly* 61: 686–703.
King, Desmond, and Stephen Tuck. 2007. "Decentring the South: America's Nationwide White Supremacist Order after Reconstruction." *Past and Present*, no. 194: 213–53.
Kissane, Bill, and Nick Sitter. 2005. "Civil Wars, Party Politics and the Consolidation of Regimes in Twentieth Century Europe." *Democratization* 12: 180–200.
Klarman, Michael J. 1994. "How *Brown* Changed Race Relations: The Backlash Thesis." *Journal of American History* 81: 81–118.
———. 2004. *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality.* New York: Oxford University Press.

Klinkner, Philip A., and Rogers M. Smith. 1999. *The Unsteady March: The Rise and Decline of Racial Equality in America.* Chicago: University of Chicago Press.

Klyza, Christopher McGrory, and Stephen C. Trombulak. 1999. *The Story of Vermont: A Natural and Cultural History.* Middlebury, VT: Middlebury College Press.

Kornweibel, Theodore Jr. 1998. *Seeing Red: Federal Campaigns against Black Militancy, 1919–1925.* Bloomington: Indiana University Press.

Kousser, J. Morgan. 1974. *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880–1910.* New Haven, CT: Yale University Press.

———. 1986. *Dead End: The Development of Litigation on Racial Discrimination in Schools in 19th Century America.* Fair Lawn, NJ: Oxford University Press.

———. 1991. "Before *Plessy*, before *Brown*: The Development of the Law of Racial Integration in Louisiana and Kansas." In *Towards a Usable Past: Liberty under State Constitutions.* Ed. Paul Finkelman and Stephen Gottlieb. Athens: University of Georgia Press.

———. 1999. *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction.* Chapel Hill: University of North Carolina Press.

Kraditor, Aileen. 1981. *The Ideas of the Woman Suffrage Movement, 1890–1920.* New York: Norton.

Krebs, Ronald. 2007. "Liberty in War's Wake: Tentative Hypotheses and Suggestive Evidence on War and Democratic Contestation." Unpublished paper prepared for The Politics of Peace and the Consequences of War conference, University of Texas at Austin, May 6–7.

Kruger, Richard. 1977. *Simple Justice.* New York: Random House.

Kryder, Daniel. 2000. *Divided Arsenal: Race and the American State during World War II.* Cambridge: Cambridge University Press.

Kull, Andrew. 1992. *The Color-Blind Constitution.* Cambridge, MA: Harvard University Press.

Kuykendall, Ralph S., and A. Grove Day. 1976. *Hawaii: A History.* Rev. ed. Englewood Cliffs, NJ: Prentice Hall.

Lamar, L. Q. C. 1879. "Ought the Negro to Be Disfranchised? Ought He to Have Been Enfranchised?" *North American Review* 128: 231.

Latham, Henry. 1867. *Black and White: A Journal of a Three Month's Tour in the United States.* London: Macmillan.

Lau, Richard R., and Gerald M. Pomper. 2004. *Negative Campaigning.* Lanham, MD: Rowman & Littlefield.

Lawson, Steven F. 1985. *In Pursuit of Power: Southern Blacks and Electoral Politics, 1965–1982.* New York: Columbia University Press.

Layton, Azza Salama. 2000. *International Politics and Civil Rights Policies in the United States, 1941–1960.* New York: Cambridge University Press.

Lemons, J. Stanley, and Michael A. McKenna. 1971. "Re-enfranchisement of Rhode Island Negroes." *Rhode Island History* 30: 3–14.

Letki, Natalia, and Geoffrey Evans. 2005. "Endogenizing Social Trust: Democratization in East-Central Europe." *British Journal of Political Science* 35: 515–30.

Levy, Leonard W. 1986. *Constitutional Opinions: Aspects of the Bill of Rights.* New York: Oxford University Press.

Lewis, Gordon K. 1963. *Puerto Rico: Freedom and Power in the Caribbean.* New York: Monthly Review Press.
Lichtenstein, Nelson. 1982. *Labor's War at Home: The CIO in World War II.* New York: Cambridge University Press.
Lieberman, Robert C. 1998. *Shifting the Color Line: Race and the American Welfare State.* Cambridge, MA: Harvard University Press.
———. 2002a. "Ideas, Institutions, and Political Order: Explaining Political Change." *American Political Science Review* 96: 697–712.
———. 2002b. "Weak State, Strong Policy: Paradoxes of Race Policy in the United States, Great Britain, and France." *Studies in American Political Development* 16: 138–61.
———. 2004. "Private Power and American Bureaucracy: Civil Rights and the Democratization Trap." Paper presented at the Conference on Democratization in America, Nuffield College, Oxford.
———. 2005. *Shaping Race Policy: The United States in Comparative Perspective.* Princeton, NJ: Princeton University Press.
Lieven, Anatol. 2004. *America Right or Wrong: An Anatomy of American Nationalism.* New York: Oxford University Press.
Lijphart, Arend. 1990. "The Political Consequences of Electoral Laws, 1945–85." *American Political Science Review* 84: 481–96.
Lindberg, Richard C. 1991. *To Serve and Collect: Chicago Politics and Police Corruption from the Lager Beer Riot to the Summerdale Scandal.* New York: Praeger.
Linklater, Andro. 2003. *Measuring America: How the United States Was Shaped by the Greatest Land Sale in History.* New York: Plume, Penguin.
Linz, Juan J. 1994. "Presidential or Parliamentary Democracy: Does It Make a Difference?" In *The Failure of Presidential Democracy.* Ed. Juan J. Linz and Arturo Valenzuela. Baltimore: Johns Hopkins University Press.
Linz, Juan J., and Alfred Stepan. 1996a. *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe.* Baltimore: Johns Hopkins University Press.
———. 1996b. "Towards Consolidated Democracies." *Journal of Democracy* 7: 15–25.
Linz, Juan J., and Arturo Valenzuela, eds. 1994. *The Failure of Presidential Democracy.* Baltimore: Johns Hopkins University Press.
Lipset, Seymour Martin. 1959. "Some Social Requisites of Democracy: Economic Development and Political Legitimacy." *American Political Science Review* 53: 69–105.
———. 1963. *The First New Nation: The United States in Comparative and Historical Perspective.* New York: Basic Books.
———. 1996. *American Exceptionalism: A Double-Edged Sword.* New York: W. W. Norton.
Litwack, Leon. 1961. *North of Slavery: The Negro in the Free States, 1790–1860.* Chicago: University of Chicago Press.
Lockhart, Charles. 2003. *The Roots of American Exceptionalism: Institutions, Culture and Policies.* New York: Palgrave Macmillan.
Lowenthal, Abraham F., Theodore J. Piccone, and Laurence Whitehead, eds. 2009. *The Obama Administration and the Americas: Agenda for Change.* Washington, DC: Brookings Institution.
Lowi, Theodore J. 1979. *The End of Liberalism: The Second Republic of the United States.* 2d ed. New York: W. W. Norton.

Lowndes, Joseph, Julie Novkov, and Dorian T. Warren, eds. 2008. *Race and American Political Development.* New York: Routledge.
Lublin, David. 1997. *The Paradox of Representation.* Princeton, NJ: Princeton University Press.
———. 2004. *The Republican South: Democratization and Partisan Change.* Princeton, NJ: Princeton University Press.
Luker, Ralph. 1991. *The Social Gospel in Black and White.* Chapel Hill: University of North Carolina Press.
MacKinnon, Catherine. 1987. *Feminism Unmodified.* Cambridge, MA: Harvard University Press.
MacPherson, James. 2006. "The Great Betrayal." *New York Review of Books*, November 30.
Mahoney, James. 2000. "Path Dependence in Historical Sociology." *Theory and Society* 29: 507–48.
Mahoney, James, and Dietrich Rueschemeyer, eds. 2003. *Comparative Historical Analysis in the Social Sciences.* Cambridge: Cambridge University Press.
Maldonado-Denis, Manuel. 1972. *Puerto Rico: A Socio-Historic Interpretation.* New York: Random House.
Mann, Michael. 1987. "Ruling Class Strategies and Citizenship." *Sociology* 21: 339–54.
———. 1993. *The Rise of Classes and Nation-States, 1760–1914.* Vol. 2 of *The Sources of Social Power.* Cambridge: Cambridge University Press.
Mansbridge, Jane. 1999. "Everyday Talk in the Deliberative System." In *Deliberative Politics: Essays on Democracy and Disagreement.* Ed. Stephen Macedo. New York: Oxford University Press.
Manza, Jeff, and Christopher Uggen. 2006. *Locked Out: Felon Disenfranchisement and American Democracy.* New York: Oxford University Press.
Maravall, José Maria, and Adam Przeworski, eds. 2003. *Democracy and the Rule of Law.* Cambridge: Cambridge University Press.
Marcus, George E., W. Russell Neuman, and Michael MacKuen. 2000. *Affective Intelligence and Political Judgment.* Chicago: University of Chicago Press.
Marshall, T. H. 1964. "Citizenship and Social Class." In *Class, Citizenship, and Social Development.* Garden City, NY: Doubleday.
Martinez, Gebe. 2006. "Congress Split on Immigration Policy: Senate Panel to Debate Granting More Visas, Easing the Restrictions on Family Members." *Houston Chronicle* (Washington Bureau), March 15.
Massey, Douglas, and Nancy A. Denton. 1993. *American Apartheid: Segregation and the Making of the Underclass.* Cambridge, MA: Harvard University Press.
Mathews, Linda. 1996. "More Than Identity Rides on a New Racial Category." *New York Times*, July 6.
Mayhew, David R. 1974. *Congress: The Electoral Connection.* New Haven, CT: Yale University Press.
———. 2002. *Electoral Realignments.* New Haven, CT: Yale University Press.
———. 2005. "Wars and American Politics." *Perspectives on Politics* 3: 473–93.
McAdam, Douglas. 1982. *Political Process and the Development of Black Insurgency, 1930–1970.* Chicago: University of Chicago Press.
McAdam, Douglas, S. Tarrow, and C. Tilly. 2001. *Dynamics of Contention.* New York: Cambridge University Press.

McConnell, Grant. 1966. *Private Power and American Democracy.* New York: Alfred A. Knopf.

McCubbins, Mathew D., Roger G. Noll, and Barry R. Weingast. 1987. "Administrative Procedures as Instruments of Political Control." *Journal of Law, Economics, and Organization* 3: 243–77.

McCubbins, Mathew D., and Thomas Schwartz. 1984. "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms." *American Journal of Political Science* 28: 165–79.

McDonagh, Eileen L. 1994. "Gender Politics and Political Change." In *New Perspectives on American Politics.* Ed. Lawrence C. Dodd and Calvin Jillson. Washington, DC: Congressional Quarterly Press.

———. Forthcoming. *Gendering the State: Democratization and Women's Political Leadership in Democracies.* Chicago: Chicago University Press.

Mendelberg, Tali. 2001. *The Race Card: Campaign Strategy, Implicit Messages, and the Norm of Equality.* Princeton, NJ: Princeton University Press.

———. 2008a. "Racial Priming: Issues in Research Design and Interpretation." *Perspectives on Politics* 6: 135–40.

———. 2008b. "Racial Priming Revived." *Perspectives on Politics* 6: 109–123.

Mendelberg, Tali, and John Oleske. 2000. "Race and Public Deliberation." *Political Communication* 17: 169–92.

Merelman, Richard, Greg Streich, and Paul Martin. 1998. "Unity and Diversity in American Political Culture: An Exploratory Study of the National Conversation on American Pluralism and Identity." *Political Psychology* 19: 781–808.

Mettler, Suzanne. 1998. *Dividing Citizens: Gender and Federalism in New Deal Public Policy.* Ithaca, NY: Cornell University Press.

———. 2000. "States' Rights, Women's Obligations: Contemporary Welfare Reform in Historical Perspective." *Women and Politics* 21: 1–34.

———. 2005. *Soldiers to Citizens: The GI Bill and the Making of the Greatest Generation.* New York: Oxford University Press.

———. 2007. "The Transformed Welfare State and the Redistribution of Political Voice." In *The Transformation of American Politics.* Ed. Paul Pierson and Theda Skocpol. Princeton, NJ: Princeton University Press.

Mettler, Suzanne, and Joe Soss. 2004. "The Consequences of Public Policy for Democratic Citizenship: Bridging Policy Studies and Mass Politics." *Perspectives on Politics* 2: 55–73.

Mezey, Susan. 2003. *Elusive Equality: Women's Rights, Public Policy, and the Law.* Boulder, CO: Lynne Reinner.

Mickey, Robert W. Forthcoming. *Paths out of Dixie: The Democratization of Authoritarian Enclaves in America's Deep South, 1944–1972.* Princeton, NJ: Princeton University Press.

Middleton, Stephen, ed. 2002. *Black Congressmen during Reconstruction.* Westport, CT: Greenwood Press.

Moe, Terry M. 1985. "Control and Feedback in Economic Regulation: The Case of the NLRB." *American Political Science Review* 79: 1094–1116.

———. 1987. "Interests, Institutions, and Positive Theory: The Politics of the NLRB." *Studies in American Political Development* 2: 236–99.

———. 1989. "The Politics of Bureaucratic Structure." In *Can the Government Govern?* Ed. John E. Chubb and Paul E. Peterson. Washington, DC: Brookings Institution.

Moneyhon, Carl. 1985. "Black Politics in Arkansas during the Gilded Age, 1876–1900." *Arkansas Historical Quarterly* 44: 220–38.
Monkkonen, Eric H. 1981. *Police in Urban America, 1860–1920*. New York: Cambridge University Press.
Moore, Barrington Jr. 1966. *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World*. Boston: Beacon Press.
Morgan, Edmund S. 1988. *Inventing the People: The Rise of Popular Sovereignty in England and America*. New York: W. W. Norton.
Morlino, Leonardo. 1998. *Democracy between Consolidation and Crisis*. Oxford: Oxford University Press.
Morone, James A. 1990. *The Democratic Wish: Popular Participation and the Limits of American Government*. New York: Basic Books.
Murphy, Paul L. 1979. *World War I and the Origin of Civil Liberties in the United States*. New York: Norton.
Myrdal, Gunnar. 1944. *An American Dilemma: The Negro Problem and American Democracy*. 2 vols. New York: Harper & Brothers.
National Advisory Commission on Civil Disorders. 1968. *Report of National Advisory Commission on Civil Disorders*. New York: Bantam Books.
Neely, Mark E. Jr. 1992. *The Fate of Liberty: Abraham Lincoln and Civil Liberties*. New York: Oxford University Press.
Nettl, J. P. 1968. "The State as a Conceptual Variable." *World Politics* 20: 559–92.
Ngai, Mae M. 2004. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton, NJ: Princeton University Press.
North, Douglass C., and Barry R. Weingast. 1989. "Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England." *Journal of Economic History* 49: 803–32.
Novkov, Julie. 2001. *Constituting Workers, Protecting Women: Gender, Law and Labor in the Progressive Era and New Deal Years*. Ann Arbor: University. of Michigan Press.
———. 2008. *Racial Union: Law, Intimacy and the White State in Alabama 1865–1954*. Ann Arbor: University of Michigan Press.
Nye, Joseph S. Jr. 2004. *Soft Power: The Means to Success in World Politics*. New York: Public Affairs.
O'Donnell, Guillermo. 1993. "On the State, Democratization, and Some Conceptual Problems: A Latin American View with Glances at Some Postcommunist Countries." *World Development* 21: 1355–69.
———. 1996. "Illusions about Consolidation." *Journal of Democracy* 7: 33–45.
———. 1999. *Counterpoints: Selected Essays on Authoritarianism and Democratization*. Notre Dame, IN: University of Notre Dame Press.
———. 2001. "Democracy, Law and Comparative Politics." *Studies in Comparative International Development* 36: 5–36.
O'Donnell, Guillermo, Philippe C. Schmitter, and Laurence Whitehead, eds. 1986. *Transitions from Authoritarian Rule: Prospects for Democracy*. Baltimore: Johns Hopkins University Press.
Oldfield, John. 2001. "On the Beat: Black Policemen in Charleston, 1869–1921." *South Carolina Historical Magazine* 102: 158–74.
Oliver, J. Eric, and Tali Mendelberg. 2000. "Reconsidering the Environmental Determinants of White Racial Attitudes." *American Journal of Political Science* 44: 574–89.

O'Neal, E. 1920. "The Susan B. Anthony Amendment: Effect of Its Ratification on the Rights of the States to Regulate and Control Suffrage and Elections." *Virginia Law Review* 6: 338–60.

Orfield, Gary, and Carole Ashkinaze. 1991. *The Closing Door: Conservative Policy and Black Opportunity.* Chicago: University of Chicago Press.

Orloff, Ann Shola. 1993. "Gender and the Social Rights of Citizenship: The Comparative Analysis of Gender Relations and Welfare States." *American Sociological Review* 58: 303–28.

Orren, Karen, and Stephen Skowronek. 2004. *The Search for American Political Development.* Cambridge: Cambridge University Press.

Owen, John M. IV. 1997. *Liberal Peace, Liberal War: American Politics and International Security.* Ithaca, NY: Cornell University Press.

Page, Benjamin I., and Robert Y. Shapiro. 1992. *The Rational Public: Fifty Years of Trends in Americans' Public Policy Preferences.* Chicago: University of Chicago Press.

Pateman, Carole. 1988. *The Sexual Contract.* Stanford, CA: Stanford University Press.

Patterson, Orlando. 1991. *Freedom in the Making of the Western World.* Vol. 1 of *Freedom.* New York: Basic Books.

Payne, Dinah, Sandra J. Hartman, Maurice F. Villere, Beverly H. Nelson, and Gregory Baxter. 1992. "Is Big Brother Watching? Perceptions and Research on the Effectiveness of the EEOC." *Labor Law Journal* 43: 249–56.

Peace Brigades International. 1999. "Comisión para el esclarecimiento histórico, Guatemala." www.peacebrigades.org/guatemala/cap98-3e.html.

Peltzman, Sam. 1976. "Toward a More General Theory of Regulation." *Journal of Law and Economics* 19: 211–40.

Perez, Louis A. Jr. 1990. *Cuba and the United States: Ties of Singular Intimacy.* Athens: University of Georgia Press.

Perman, Michael. 2001. *Struggle for Mastery: Disfranchisement in the South, 1888–1908.* Chapel Hill: University of North Carolina Press.

Pevehouse, Jon C. 2002. "With a Little Help from My Friends." *American Journal of Political Science* 46: 611–26.

Pew Hispanic Center and Kaiser Family Foundation. 2002. "The 2002 National Survey of Latinos." http://pewhispanic.org/files/reports/15.9.pdf.

Pierson, Paul. 2000. "Increasing Returns, Path Dependence, and the Study of Politics." *American Political Science Review* 94: 251–67.

———. 2003. "Big, Slow-moving and Invisible Macrosocial Processes in the Study of Comparative Politics." In *Comparative Historical Analysis in the Social Sciences.* Ed. James Mahoney and Dietrich Rueschemeyer. Cambridge: Cambridge University Press.

———. 2004. *Politics in Time.* Princeton, NJ: Princeton University Press.

Piore, Michael J., and Charles F. Sabel. 1984. *The Second Industrial Divide: Possibilities for Prosperity.* New York: Basic Books.

Pitre, Merline. 1985. *Through Many Dangers, Toils and Snares: The Black Leadership of Texas, 1868–1900.* Austin, TX: Eakin Press.

Polanyi, Karl. 1944. *The Great Transformation: The Political and Economic Origins of Our Time.* New York: Rinehart.

Political Staff of the Washington Post. 2001. *Deadlock: The Inside Story of America's Closest Election.* New York: Public Affairs.

Price, Barbara R., and Susan Gavin. 1994. "A Century of Women in Policing." In *The Criminal Justice System and Women.* New York: McGraw Hill.

Przeworski, Adam. 1991. *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America.* Cambridge: Cambridge University Press.

———. 2004. "The Last Instance: Are Institutions the Primary Cause of Economic Development?" *Archives Européennes des Sociologie* 45: 165–88.

Przeworski, Adam, Michael E. Alvarez, José Antonio Cheibub, and Fernando Limongi. 2000. *Democracy and Development: Political Institutions and Well-Being in the World, 1950–1990.* Cambridge: Cambridge University Press.

Przeworski, Adam, and Fernando Limongi. 1997. "Modernization: Theories and Facts." *World Politics* 49: 155–183.

Przeworski, Adam, Susan Stokes, and Bernard Manin, eds. 1999. *Democracy, Accountability and Representation.* New York: Cambridge University Press.

Pugh, Tony. 2001. "Mixed Marriages on the Rise in U.S.: Racial, Ethnic Barriers Abating as Country Becomes More Diverse." *Houston Chronicle*, March 25.

Putnam, Robert D. 2000. *Bowling Alone: The Collapse and Revival of American Community.* New York: Simon & Schuster.

———, ed. 2002. *Democracies in Flux: The Evolution of Social Capital in Contemporary Society.* New York: Oxford University Press.

Putnam, Robert D., Robert Leonardi, and Raffaella Y. Nanetti. 1993. *Making Democracy Work: Civic Traditions in Modern Italy.* Princeton, NJ: Princeton University Press.

Pye, Lucian W. 1965. "The Concept of Political Development." *Annals of the American Academy of Political and Social Science* 358: 1–15.

Quadagno, Jill. 1994. *The Color of Welfare: How Racism Undermined the War on Poverty.* New York: Oxford University Press.

Rabinowitz, Howard. 1979. *Race Relations in the Urban South, 1865–1890.* Urbana: University of Illinois Press.

———. 1993. *Race and Ethnicity.* Columbia: University of Missouri Press.

Rahn, Wendy, John Brehm, and Neil Carlson. 1999. "National Elections as Institutions for Generating Social Capital." In *Civic Engagement in American Democracy.* Ed. Theda Skocpol and Morris P. Fiorina. Washington, DC: Brookings Institution Press.

Redding, Kent. 2003. *Making Race, Making Power: North Carolina's Road to Disfranchisement.* Urbana: University of Illinois Press.

Redding, Kent, and David R. James. 2001. "Estimating Levels and Modeling Determinants of Black and White Voter Turnout in the South, 1880–1912." *Historical Methods* 34: 141–58.

Remnick, David. 2004. "Going Nowhere." *New Yorker*; July 12 and 19, 74–83.

Resnik, Judith 2006. "Law's Migration: American Exceptionalism, Silent Dialogues, and Federalism's Multiple Points of Entry." *Yale Law Journal* 115: 1564–1670.

Riker, William H. 1982. *Liberalism against Populism: A Confrontation between the Theory of Democracy and the Theory of Social Choice.* San Francisco: W. H. Freeman.

Riley, Russell L. 1999. *The Presidency and the Politics of Racial Inequality: Nation-Keeping from 1831 to 1965.* New York: Columbia University Press.

Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink, eds. 1999. *The Power of Human Rights: International Norms and Domestic Politics.* Cambridge: Cambridge University Press.

Ritter, Gretchen. 2002. "Jury Service and Women's Citizenship before and after the Nineteenth Amendment." *Law and History Review* 20: 479–515.

———. 2003. "Of War and Virtue: Gender, Citizenship and Veterans' Benefits after WWII." *Comparative Study of Conscription: Comparative Social Research* 20: 201–26.

———. 2006. *The Constitution as Social Design: Gender and Civic Membership in the American Constitutional Order.* Palo Alto, CA: Stanford University Press.

Rodgers, Harrell R., Jr., and Charles S. Bullock III. 1972. *Law and Social Change.* New York: McGraw-Hill.

Rodriguez, Daniel B., and Barry R. Weingast. 2003. "The Positive Political Theory of Legislative History: New Perspectives on the 1964 Civil Rights Act and Its Interpretation." *University of Pennsylvania Law Review* 151: 1417–1542.

Rose, Richard, and Doh Chull Shin. 2001. "Democratization Backwards: The Problem of Third Wave Democracies." *British Journal of Political Science* 31: 331–54.

Rosenberg, Gerald N. 1991. *The Hollow Hope: Can Courts Bring about Social Change?* Chicago: University of Chicago Press.

Rosenberg, Shawn W. 2007. "Types of Discourse and the Democracy of Deliberation." In *Deliberation, Participation, and Democracy: Can the People Govern?* Ed. Shawn W. Rosenberg. New York: Palgrave Macmillan

Rosenstone, Steven J., and John Mark Hansen. 1993. *Mobilization, Participation, and Democracy in America.* New York: Macmillan.

Rostow, W. W. 1960. *Stages of Economic Growth: A Non-Communist Manifesto.* Cambridge: Cambridge University Press.

Rothstein, Bo. 2000. "Trust, Social Dilemmas, and Collective Memories." *Journal of Theoretical Politics* 12: 477–501.

Royko, Mike. 1971. *Boss: Richard J. Daley of Chicago.* New York: Signet.

Rubio-Marín, Ruth. 2000. *Immigration as a Democratic Challenge: Citizenship and Inclusion in Germany and the United States.* Cambridge: Cambridge University Press.

Rueschemeyer, Dietrich, Evelyne Huber Stephens, and John D. Stephens. 1992. *Capitalist Development and Democracy.* Chicago: University of Chicago Press.

Rustow, Dankwart. 1970. "Transitions to Democracy: Toward a Dynamic Model." *Comparative Politics* 2: 344–52.

Sandel, Michael J. 1996. *Democracy's Discontent: America in Search of a Public Philosophy.* Cambridge, MA: Harvard University Press.

Sanders, Elizabeth M. 1999. *Roots of Reform: Farmers, Workers, and the American State, 1877–1917.* Chicago: University of Chicago Press.

Sanders, Lynn M. 1997. "Against Deliberation." *Political Theory* 25: 347–76.

Sapiro, Virginia. 1999. "Considering Political Civility Historically: A Case Study of the United States." Paper presented at the Annual Meeting of the International Society for Political Psychology, Amsterdam.

Schafer, Ronald. 1991. *America in the Great War: The Rise of the War Welfare State.* New York: Oxford University Press.

Schedler, Andreas 1998. "What Is Democratic Consolidation?" *Journal of Democracy* 9: 91–107.

Schedler, Andreas, Larry Diamond, and Marc F. Plattner, eds. 1999. *The Self-Restraining State: Power and Accountability in New Democracies.* Boulder, CO.: Lynne Rienner.

Schickler, Eric. 2001. *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress.* Princeton, NJ: Princeton University Press.

Schneiberg, Marc. 1999. "Political and Institutional Conditions for Governance by As-

sociation: Private Order and Price Controls in American Fire Insurance." *Politics and Society* 27: 67–103.
Schneiberg, Marc, and Tim Bartley. 2001. "Regulating American Industries: Markets, Politics, and the Institutional Determination of Fire Insurance Regulations." *American Journal of Sociology* 107: 101–46.
Schneider, Anne, and Helen Ingram. 1997. *Policy Design for Democracy.* Lawrence: University Press of Kansas.
Schneider, Mark Robert. 1997. *Boston Confronts Jim Crow, 1890–1920.* Boston: Northeastern University Press.
Schofield, Philip, Catherine Pease-Watkins, and Cyprian Blamires, eds. 2002. *Rights, Representation and Reform: Nonsense upon Stilts and Other Writings on the French Revolution.* Oxford: Clarendon Press.
Schrecker, Ellen. 1999. *Many Are the Crimes.* Princeton, NJ: Princeton University Press.
Schuman, Howard, Charlotte Steeh, Lawrence Bobo, and Maria Krysan. 1997. *Racial Attitudes in America: Trends and Interpretation.* Rev. ed. Cambridge, MA: Harvard University Press.
Schumpeter, Joseph A. 1942. *Capitalism, Socialism and Democracy.* New York: Harper & Brothers.
Schweninger, Loren. 1990. *Black Property Owners in the South, 1790–1915.* Urbana: University of Illinois Press.
Sears, David O., John J. Hetts, Jim Sidanius, and Lawrence Bobo. 2000. "Race in American Politics: Framing the Debates." In *Racialized Politics.* Ed. David O. Sears, Jim Sidanius, and Lawrence Bobo. Chicago: University of Chicago Press.
Sears, D., C. Van Laar, M. Carrillo, and R. Kosterman. 1997. "Is It Really Racism?" *Public Opinion Quarterly* 61: 16–53.
Selmi, Michael. 1996. "The Value of the EEOC: Reexamining the Agency's Role in Employment Discrimination Law." *Ohio State Law Journal* 57: 1–64.
" 'Sergeant Ira L. Cooper's Letter to the St. Louis Police Relief Association,' May 25, 1924." 1987. *Journal of Negro History* 72 (Summer-Autumn).
Shapiro, Herbert. 1988. *White Violence and Black Response: From Reconstruction to Montgomery.* Amherst: University of Massachusetts Press.
Shapiro, Thomas M. 2005. *The Hidden Cost of Being African American: How Wealth Perpetuates Inequality.* New York: Oxford University Press.
Shefter, Martin. 1977. "Party and Patronage: Germany, England, and Italy." *Politics and Society* 7: 403–52.
Shugart, Matthew Soberg, and John M. Carey. 1992. *Presidents and Assemblies: Constitutional Design and Electoral Dynamics.* Cambridge: Cambridge University Press.
Sidanius, J., and F. Pratto. 1999. *Social Dominance: An Intergroup Theory of Social Hierarchy and Oppression.* New York: Cambridge University Press.
Siegel, Reva. 1997. "Why Equal Protection No Longer Protects: The Evolving Forms of Status Enforcing State Action." *Stanford Law Review* 49: 1111–48.
Sigelman, Lee, and Susan Welch. 1991. *Black Americans' Views of Racial Inequality: The Dream Deferred.* Cambridge: Cambridge University Press.
Sikkink, Kathryn. 1993. "The Power of Principled Ideas: Human Rights Policies in the United States and Western Europe." In *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change.* Ed. Judith Goldstein and Robert O. Keohane. Ithaca, NY: Cornell University Press.

Sitkoff, Harvard. 1993. *The Struggle for Black Equality: 1954–1992.* New York: Hill and Wang.

Skocpol, Theda. 1979. *States and Social Revolutions: A Comparative Analysis of France, Russia, and China.* Cambridge: Cambridge University Press.

———. 1985. "Bringing the State Back In: Strategies of Analysis in Current Research." In *Bringing the State Back In.* Ed. Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol. Cambridge: Cambridge University Press.

———. 1992. *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States.* Cambridge, MA: Harvard University Press.

———. 2003. *Diminished Democracy: From Membership to Management in American Civic Life.* Norman: University of Oklahoma Press.

Skowronek, Stephen. 1982. *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920.* Cambridge: Cambridge University Press.

———. 2006. "The Reassociation of Ideas and Purposes: Racism, Liberalism and the American Political Tradition." *American Political Science Review* 100: 385–401.

Skrentny, John David. 1996. *The Ironies of Affirmative Action: Politics, Culture, and Justice in America.* Chicago: University of Chicago Press.

———. 2002. *The Minority Rights Revolution.* Cambridge, MA: Harvard University Press.

Sleeper, Jim. 1997. *Liberal Racism.* New York: Viking.

Smith, Rogers M. 1993. "Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America." *American Political Science Review* 87: 549–66.

———. 1997. *Civic Ideals: Conflicting Visions of Citizenship in US History.* New Haven, CT: Yale University Press.

Smith, Tony. 1994. *America's Mission: The United States and the Worldwide Struggle for Democracy in the Twentieth Century.* Princeton, NJ: Princeton University Press.

Sniderman, Paul, and Thomas Piazza. 1993. *The Scar of Race.* Cambridge, MA: Harvard University Press.

Somers, Margaret. 1993. "Citizenship and the Place of the Public Sphere: Law, Community and Political Culture in the Transition to Democracy." *American Sociological Review* 58: 587–620.

Soss, Joe. 1999. "Lessons of Welfare: Policy Design, Political Learning, and Political Action." *American Political Science Review* 93: 293–304.

Sovern, Michael I. 1966. *Legal Restraints on Discrimination in Employment.* New York: Twentieth Century Fund.

Sparrow, Bartholomew H. 2006. *The Insular Cases and the Emergence of American Empire.* Lawrence: University Press of Kansas.

Sparrow, Malcolm K., Mark H. Moore, and David M Kennedy. 1990. *Beyond 911: A New Era for Policing.* New York: Basic Books.

Springer, Melanie Jean. 2006. "Electoral Institutions, Voter Turnout and American Democracy: The States, 1920–2000." Ph.D. diss., Columbia University.

Stanley, John. 1969. "Majority Tyranny in Tocqueville's America: The Failure of Negro Suffrage in 1846." *Political Science Quarterly* 84: 415–35.

Stanley, William Deane. 1987. "Economic Migrants or Refugees from Violence? A Time-Series Analysis of Salvadoran Migration to the United States." *Latin American Research Review* 22: 132–54.

Stanton, Elizabeth Cady, Susan B. Anthony, and Matilda Joslyn Gage. 1881. *History of Woman Suffrage.* Vol. 1. New York: Fowler & Wells.

Stein, Judith. 1998. *Running Steel, Running America: Race, Economic Policy, and the Decline of Liberalism.* Chapel Hill: University of North Carolina Press.
Stepan, Alfred, and Cindy Skach. 1993. "Constitutional Frameworks and Democratic Consolidation." *World Politics* 46: 1–22.
Stigler, George J. 1971. "The Theory of Economic Regulation." *Bell Journal of Economics and Management Science* 2: 3–21.
Thelen, Kathleen. 1999. "Historical Institutionalism in Comparative Politics." *Annual Review of Political Science* 2: 369–404.
Therborn, Göran. 1977. "The Rule of Capital and the Rise of Democracy." *New Left Review*, no. 103: 3–41.
Thernstrom, Stephan, and Abigail Thernstrom. 1997. *America in Black and White: One Nation, Indivisible.* New York: Simon & Schuster.
Thomas, Bettye C. 1976. "Public Education and Black Protest in Baltimore, 1865–1900." *Maryland Historical Magazine* 71: 386–90.
Thompson, J. Phillip III. 2005. *Double Trouble: Black Mayors, Black Communities and the Call for a Deep Democracy.* New York: Oxford University Press.
Tichenor, Daniel. 1994. "The Politics of Immigration Reform in the United States, 1981–1990." *Polity* 36: 333–62.
———. 2002. *Dividing Lines: The Politics of Immigration Control in America.* Princeton, NJ: Princeton University Press.
Tichenor, Daniel J., and Richard A. Harris. 2002–3. "Organized Interests and American Political Development." *Political Science Quarterly* 117: 587–612.
Tilly, Charles. 1990. *Coercion, Capital, and European States, AD 990–1990.* Cambridge, MA: Basil Blackwell.
———. 2004. *Contention and Democracy in Europe, 1650–2000.* Cambridge: Cambridge University Press.
Tocqueville, Alexis de. 1945. *Democracy in America.* 2 vols. New York: Vintage Books.
Tolnay, Stewart E., and E. M. Beck. 1995. *A Festival of Violence: An Analysis of Southern Lynchings, 1882–1930.* Urbana: University of Illinois Press.
Toobin, Jeffrey. 2004. "Poll Position." *New Yorker*, September 20, 56–62.
Toole, K. Ross. 1959. *Montana: An Uncommon Land.* Norman: University of Oklahoma Press.
Trotter, Joe William. 2001. *African American Experience.* Boston: Houghton Mifflin.
Truman, David B. 1971. *The Governmental Process: Political Interests and Public Opinion.* 2d ed. New York: Alfred A. Knopf.
Tuck, Stephen. 2003. *Beyond Atlanta: The Struggle for Racial Equality in Georgia.* Athens: University of Georgia Press.
———. 2006. "Making the Voting Rights Act." In *The Voting Rights Act.* Ed. Richard Valelly. Washington, DC: Congressional Quarterly Press.
Tully, James. 1999. "Aboriginal Peoples: Negotiating Reconciliation." In *Canadian Politics.* 3d ed. Ed. James Bickerton and Alain-G. Gagnon. Peterborough, Ont.: Broadview Press.
Turner, Frederick Jackson. 1905/1961. "Contributions of the West to American Democracy." In *Frontier and Section: Selected Essays of Frederick Turner.* Ed. Ray Allen Billington. Englewood Cliff, NJ: Prentice Hall.
Unger, Roberto Mangabeira. 1996. *What Should Legal Analysis Become?* London: Verso.
United Nations. 1993. "Report of the UN Truth Commission on El Salvador." www.derechos.org/nizkor/salvador/informes/truth.html.

U.S. Census Bureau. 2000a. "The Hispanic Population in the US: Population Characteristics." March. www.census.gov/population/socdemo/hispanic/p20-535/p20-535.pdf.
———. 2000b. *Resident Population Estimates of the US by Race and Hispanic Origin.* Washington, DC: Government Printing Office.
———. 2003. "Language Use and English-Speaking Ability: 2000." Census 2000 Brief. Washington, DC: U.S. Citizenship and Immigration Services. www.migrationinformation.org/GlobalData/countrydata/country.cfm.
———. 2005. "Income Stable, Poverty Rates Increases, Percentage of Americans without Health Insurance Unchanged." www.census.gov/Press-Release/www/releases/archives/income_wealth/005647.html.
U.S. Citizenship and Immigration Services. 2006. "The American Baptist Services v. Thornburgh (ABC) Settlement Agreement." http://uscis.gov/graphics/services/residency/abc.htm
U.S. Commission on Civil Rights. 2000. *Overcoming the Past, Focusing on the Future: An Assessment of the U.S. Equal Opportunity Commission's Enforcement Efforts.* Washington, DC: Government Printing Office.
Valelly, Richard M. 1995. "Political Parties and Racial Disenfranchisement." In *Classifying by Race.* Ed. Paul E. Peterson. Princeton, NJ: Princeton University Press.
———. 2004. *The Two Reconstructions: The Struggle for Black Enfranchisement.* Chicago: University of Chicago Press.
Valentino, Nicholas, Vince Hutchings, and Ismail White. 2002. "Cues That Matter." *American Political Science Review* 96: 75–90.
Valentino, Nicholas A., and David O. Sears. 2005. "Old Times There Are Not Forgotten: Race and Partisan Realignment in the Contemporary South." *American Journal of Political Science* 49: 672–88.
Verba, Sidney, Kay Lehman Schlozman, and Henry Brady. 1995. *Voice and Equality: Civic Voluntarism in American Politics.* Cambridge, MA: Harvard University Press.
Waldron, Jeremy. 1999. *Law and Disagreement.* Oxford: Oxford University Press.
Walker, Samuel. 1977. *A Critical History of Police Reform.* Lexington, MA: DC Heath.
———. 1992. *A Decade of Modest Progress: Employment of Black and Hispanic Police Officers, 1983–1992.* Lincoln: Department of Criminal Justice, University of Nebraska.
" 'Walking the Streets in a Way No Decent Woman Should': Women Police in World War I." 1994. *Journal of Modern History* 66 (March): 5–30.
Walzer, Michael. 1999. "Deliberation . . . and What Else?" In *Deliberative Politics: Essays on Democracy and Disagreement.* Ed. Stephen Macedo. New York: Oxford University Press.
Wand, Jonathan N., Kenneth W. Shotts, Jasjeet S. Sekhon, Walter R. Mebane Jr., Michael C. Herron, and Henry E. Brady. 2001. "The Butterfly Did It: The Aberrant Vote for Buchanan in Palm Beach County, Florida." *American Political Science Review* 95: 793–810.
Weber, Max. 1946. "Politics as a Vocation." In *From Max Weber: Essays in Sociology.* Trans. and ed. H. H. Gerth and C. Wright Mills. New York: Oxford University Press.
Weiner, Mark S. 2004. *Black Trials: Citizenship from the Beginnings of Slavery to the End of Caste.* New York: Alfred A. Knopf.
Weingast, Barry R. 1983. "Bureaucratic Discretion or Congressional Control? Regulatory Policymaking by the Federal Trade Commission." *Journal of Political Economy* 91: 765–800.

———. 1997. "The Political Foundations of Democracy and the Rule of Law." *American Political Science Review* 91: 245–63.

Weir, Margaret. 1998. "Political Parties and Social Policymaking." In *The Social Divide: Political Parties and the Future of Activist Government.* Ed. Margaret Weir. Washington, DC: Brookings Institution; New York: Russell Sage Foundation.

———. 2005. "States, Race and the Decline of New Deal Liberalism." *Studies in American Political Development* 19: 157–72.

Welch, Susan, Lee Sigelman, Tim Bledsoe, and Michael Combs. 2001. *Race and Place: Residence and Race Relations in an American City.* Cambridge: Cambridge University Press.

Wennersten, John R. 1985. "A Cycle of Race Relations on Maryland's Eastern Shore: Somerset County, 1850–1917." *Maryland Historical Magazine* 80: 378–90.

White, Gavin. 1986. *Old South, New South: Revolutions in the Southern Economy since the Civil War.* New York: Basic Books.

Whitehead, Laurence. 2002. *Democratization: Theory and Experience.* Oxford: Oxford University Press.

———. 2004. "Democracy, Democratization, and the United States of America." Paper presented at the Conference on Democratization in America, Nuffield College, Oxford.

Whittington, Keith. 2005. "'Interpose Your Friendly Hand': Political Supports for the Exercise of Judicial Review by the United States Supreme Court." *American Political Science Review* 99: 583–96.

Wiarda, Howard J., and Center for Strategic and International Studies, eds. 2002. *Comparative Democracy and Democratization.* Fort Worth, TX: Harcourt College Publishers.

Wills, Garry. 1992. *Lincoln at Gettysburg: The Words That Remade America.* New York: Simon & Schuster.

Wilson, James Q. 1989. *Bureaucracy: What Government Agencies Do and Why They Do It.* New York: Basic Books.

Wilson, Orlando W., and Roy. C. McLauren. 1977. *Police Administration.* New York: McGraw-Hill.

Winch, Julia. 1987. *Philadelphia's Black Elite: Activism, Accommodation, and the Struggle for Autonomy, 1787–1848.* Philadelphia: Temple University Press.

Wolbrecht, Christina, and Rodney E. Hero, eds. 2005. *The Politics of Democratic Inclusion.* Philadelphia: Temple University Press.

Wood, B. Dan. 1990. "Does Politics Make a Difference at the EEOC?" *American Journal of Political Science* 34: 503–30.

Wood, Forrest G. 1968. *Black Scare: The Racist Response to Emancipation and Reconstruction.* Berkeley: University of California Press.

Wood, Gordon S. 1992. *The Radicalism of the American Revolution.* New York: Alfred A. Knopf.

Woodward, C. Vann. 1974. *The Strange Career of Jim Crow.* 3d rev. ed. New York: Oxford University Press.

———. 1988. "*Strange Career* Critics: Long May They Persevere." *Journal of American History* 75: 857–68.

Young, Iris Marion. 1996. "Communication and the Other: Beyond Deliberative Democracy." In *Democracy and Difference: Contesting the Boundaries of the Political.* Ed. Seyla Benhabib. Princeton, NJ: Princeton University Press.

Young, Richard P., and Jerome S. Burstein. 1995. "Federalism and the Demise of Prescriptive Racism." *Studies in American Political Development* 9: 1–54.

Zakaria, Fareed. 1998. *From Wealth to Power: The Unusual Origins of America's World Role.* Princeton, NJ: Princeton University Press.

———. 2003. *The Future of Freedom: Illiberal Democracy at Home and Abroad.* New York: W. W. Norton.

Ziblatt, Daniel. 2004. "Rethinking the Origins of Federalism: Puzzle, Theory, and Evidence from Nineteenth-Century Europe." *World Politics* 57: 70–98.

———. 2006. *Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism.* Princeton, NJ: Princeton University Press.

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